

TITLE 6. ECONOMIC SECURITY**Chapter****1. Department of Economic Security****Article**

1. Public Participation in Rulemaking
2. Debt Setoff
3. Good Cause Exception for Provider Employment or Use of Ex-Offenders
4. Fingerprinting
5. Civil Rights

2. Department of Economic Security - Employment and Training**Article**

1. General Provisions
2. Employment Services Provided by the Department
3. Repealed
4. Other Employment Services and Programs
5. Reserved
6. Repealed

3. Department of Economic Security - Unemployment**Insurance****Article**

1. Recodified
2. Recodified
3. Recodified
4. Repealed
5. Repealed
6. Recodified
7. Recodified
8. Recodified
9. Recodified
10. Repealed
11. Repealed
12. Recodified
13. Definitions
14. Administration and Enforcement
15. Decisions, Hearings, and Orders
16. Funds
17. Contributions
18. Benefits
19. Recodified
20. Recodified
21. Recodified
22. Recodified
23. Recodified
24. Recodified
25. Repealed
26. Repealed
27. Repealed
28. Reserved
29. Reserved
30. Reserved
31. Reserved
32. Reserved
33. Reserved
34. Reserved
35. Repealed
36. Repealed

37. Repealed
38. Repealed
39. Repealed
40. Repealed
41. Repealed
42. Reserved
43. Reserved
44. Reserved
45. Reserved
46. Reserved
47. Reserved
48. Reserved
49. Reserved
50. Voluntary Leaving Benefit Policy
51. Discharge Benefit Policy
52. Able and Available Benefit Policy
53. Refusal of Work Benefit Policy
54. Miscellaneous Benefit Policy
55. Total and Partial Unemployment Benefit Policy
56. Labor Dispute Benefit Policy
57. Reserved
58. Reserved
59. Reserved
60. Repealed
61. Repealed
62. Repealed
63. Repealed
64. Repealed
65. Repealed
66. Repealed

4. Department of Economic Security - Rehabilitation Services**Article**

1. State Agency Administration
2. Provision of Services to Individuals
3. Business Enterprise Program
4. Other Rules and Provisions that Relate to Providing Services to Individuals
5. Reserved
6. Sight Conservation Program
7. Rehabilitation Services to the Blind and Visually Impaired
8. Disability Determination Services

5. Department of Economic Security - Social Services**Article**

1. Repealed
2. Repealed
3. Repealed
4. Repealed
5. Repealed
6. Repealed
7. Repealed
8. Repealed
9. Repealed
10. Repealed
11. Repealed
12. Repealed
13. Repealed

14.	Repealed	71.	Repealed
15.	Repealed	72.	Repealed
16.	Reserved	73.	Repealed & Renumbered
17.	Repealed	74.	Licensing Process and Licensing Requirements for Child Welfare Agencies Operating Residential Group Care Facilities and Outdoor Experience Programs
18.	Repealed	75.	Appeal and Hearing Procedures for Adverse Action Against Family Foster Homes, Adoption Agencies, Family Child Care Home Providers, and Persons Listed on the Child Care Resource and Referral System
19.	Repealed	76.	Repealed
20.	Repealed	77.	Repealed
21.	Repealed	78.	Repealed
22.	Repealed	79.	Repealed
23.	Repealed	80.	Interstate Compact on the Placement of Children
24.	Appeals and Hearings	81.	Repealed
25.	Repealed	82.	Repealed
26.	Repealed	83.	Repealed
27.	Repealed	84.	Repealed
28.	Repealed	85.	Repealed
29.	Repealed	86.	Repealed
30.	Repealed	87.	Repealed
31.	Repealed	88.	Repealed
32.	Repealed	89.	Reserved
33.	Reserved	90.	Reserved
34.	Reserved	91.	Repealed
35.	Reserved	92.	Repealed
36.	Reserved	93.	Repealed
37.	Reserved	94.	Repealed
38.	Reserved	95.	Repealed
39.	Reserved	96.	Repealed
40.	Reserved	97.	Repealed
41.	Reserved	98.	Repealed
42.	Reserved	99.	Repealed
43.	Reserved	100.	Repealed
44.	Reserved	101.	Repealed
45.	Reserved	102.	Repealed
46.	Reserved	103.	Repealed
47.	Reserved	104.	Repealed
48.	Reserved	105.	Repealed
49.	Child Care Assistance	106.	Repealed
50.	Child Care Resource and Referral System	107.	Repealed
51.	Child Day Care Services	108.	Repealed
52.	Certification and Supervision of Family Child Care Home Providers	109.	Repealed
53.	Repealed	110.	Repealed
54.	Repealed		
55.	Child Protective Services		
56.	Confidentiality and Release of CPS Records		
57.	Repealed		
58.	Family Foster Parent Licensing Requirements		
59.	Group Foster Home Licensing Standards		
60.	Comprehensive Medical/Dental Program for Foster Children		
61.	Repealed		
62.	Repealed		
63.	Repealed		
64.	Repealed		
65.	Department Adoption Functions and Procedures for Providing Adoption Services		
66.	Adoption Services		
67.	Adoptive Subsidy		
68.	Repealed		
69.	Child Placing Agency Licensing Standards		
70.	Adoption Agency Licensing		

6. Department of Economic Security - Developmental Disabilities

Article

- General Provisions
- Repealed
- Eligibility for Developmental Disabilities Services
- Application
- Admission/Redetermination/Termination
- Program Services
- Licensure of Community Residential Settings
- Programmatic Standards and Contract Monitoring for Community Residential Settings

Table of Contents

- 9. Managing Inappropriate Behaviors
- 10. Child Developmental Foster Home License
- 11. Adult Developmental Home License
- 12. Cost of Care Portion
- 13. Coordination of Benefits; Third-Party Payments
- 14. Guardianship and Conservatorship
- 15. Standards for Certification of Home and Community-based Service (HCBS) Providers
- 16. Abuse and Neglect
- 17. Human Rights Committees
- 18. Administrative Review
- 19. Contracts
- 20. Appeals and Hearings
- 7. Department of Economic Security - Child Support Enforcement (no rules filed)**
- 8. Department of Economic Security - Aging and Adult Administration**
 - Article
 - 1. Grievances and Hearings
 - 2. Adult Protective Services
- 9. Reserved**
- 10. Department of Economic Security - The JOBS Program**
 - Article
 - 1. JOBS: General Provisions
 - 2. Repealed
 - 3. Grievance Procedures
- 11. Department of Economic Security - Job Training Partnership Act (JTPA)**
 - Article
 - 1. General Provisions
 - 2. JTPA Appeal Process
- 12. Department of Economic Security - Cash Assistance Program**
 - Article
 - 1. General Provisions
 - 2. Application Process and Procedures
 - 3. Non-financial Eligibility Criteria
 - 4. Financial Eligibility; Resources
 - 5. Financial Eligibility; Income
 - 6. Special AFDC Circumstances
 - 7. Determining Eligibility and Benefit Payment Amount
 - 8. Payments
 - 9. Changes; Adverse Action
 - 10. Appeals
- 11. Overpayments
- 12. Intentional Program Violation
- 13. JOBSTART
- 13. Department of Economic Security - State Assistance Programs**
 - Article
 - 1. Reserved
 - 2. Application and Continued Eligibility
 - 3. Methods of Eligibility Determination and Budget Procedures
 - 4. Reserved
 - 5. Reserved
 - 6. Supplemental Payments Program
 - 7. General Assistance
 - 8. Short-term Crisis Services
 - 9. Tuberculosis Control
 - 10. Reserved
 - 11. Reserved
 - 12. Other Procedures and Services
- 14. Department of Economic Security - Food Stamps Program**
 - Article
 - 1. Food Stamps -- General Information and Provisions
 - 2. Food Stamps -- Eligibility Standards
 - 3. Food Stamps -- Application and Certification
 - 4. Food Stamps -- Issuance
 - 5. Food Stamps -- Hearings and Appeals
 - 6. Food Stamps -- Claims And Restoration of Lost Benefits
- 15. Department of Economic Security - Arizona Works Program**
 - Article
 - 1. General Provisions
 - 2. Application Process
 - 3. Nonfinancial Eligibility Criteria
 - 4. Financial Eligibility; Resources
 - 5. Financial Eligibility; Income
 - 6. Work Participation; Employment Levels
 - 7. Eligibility and Payments
 - 8. Changes; Adverse Action
 - 9. Overpayments
 - 10. Intentional Program Violations
 - 11. Subsidized Employment Program
 - 12. Appeals

TITLE 6. ECONOMIC SECURITY**CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY**

(Authority: A.R.S. § 41-1954 et seq.)

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING*Article 1 consisting of Sections R6-1-101 through R6-1-107 adopted effective September 22, 1988.**Former Article 1 renumbered as Article 2 effective September 22, 1988.*

Section

- R6-1-101. Rulemaking Docket and Record
- R6-1-102. Manner, Place, Time, and Form of Submissions
- R6-1-103. Petition for Adoption of a Rule
- R6-1-104. Proposed Rulemaking: Notices; Copy Fees; Fee Waiver
- R6-1-105. Oral Proceedings; Request for; Nature of
- R6-1-106. Petition for Delayed Effective Date
- R6-1-107. Written Criticisms of Existing Rules

ARTICLE 2. DEBT SETOFF*Former Article 1 consisting of Section R6-1-101 renumbered as Article 2, Section R6-1-201 effective September 22, 1988.*

Section

- R6-1-201. Request for Review
- R6-1-202. Review of Debt Setoff

ARTICLE 3. GOOD CAUSE EXCEPTION FOR PROVIDER EMPLOYMENT OR USE OF EX-OFFENDERS

Section

- R6-1-301. Definitions
- R6-1-302. Prior Submission of Fingerprints
- R6-1-303. Employment or Use of Ex-offenders in General
- R6-1-304. Application for Exception for Good Cause
- R6-1-305. Statement of Provider
- R6-1-306. Agency Submission to Director for Review
- R6-1-307. Review of the Application and Decision
- R6-1-308. Appeals
- R6-1-309. Subsequent Offenses

ARTICLE 4. FINGERPRINTING

Section

- R6-1-401. Definitions
- R6-1-402. Provider Responsibilities
- R6-1-403. Exempt Providers
- R6-1-404. Effect of Certification Form Disclosures
- R6-1-405. Costs
- R6-1-406. Certification and Sanctions
- R6-1-407. Effect of Confirmed Proscribed Criminal History
- R6-1-408. Certification Expiration
- R6-1-409. Subsequent Offenses

ARTICLE 5. CIVIL RIGHTS*Article 5, consisting of Section R6-1-501, recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).*

Section

- R6-1-501. Civil Rights

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING**R6-1-101. Rulemaking Docket and Record**

- A. The Department of Economic Security ("the Department") shall maintain the official public rulemaking docket and agency rulemaking record required by A.R.S. §§ 41-1021 and 41-1029 in the office of the Department's Associate Director,

or that person's successor, in the Department's central headquarters in Phoenix. Any person may review the docket and record Monday through Friday from 8:00 a.m. to 5:00 p.m., except on state holidays.

- B. Any person who reviews a rulemaking docket or record shall sign a log which shall contain the following information:
 1. The person's name, current address, and daytime telephone number;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the person is representing as a registered lobbyist or otherwise;
 3. The docket or record which the person is reviewing;
 4. Whether the person is requesting the records for a commercial purpose;
 5. The date of review; and
 6. The person's signature.

Historical Note

Former Section R6-1-101 renumbered as R6-1-201; new Section R6-1-101 adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4).

R6-1-102. Manner, Place, Time, and Form of Submissions

- A. All petitions, requests, submissions, criticisms, or other materials submitted to the Department with regard to rulemaking shall be filed in original form. Copies of referenced material and material incorporated by reference may be filed pursuant to R6-1-103(B)(5)
- B. All writings shall be legibly handwritten or typed on 8 1/2- by 11-inch white paper.
- C. With the exception of writings submitted during an oral proceeding pursuant to R6-1-105(D), all documents shall be filed directly with the Division of Administrative Services.
- D. Any document shall be deemed received when the Division of Administrative Services affixes a "received" date stamp on it.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4).

R6-1-103. Petition for Adoption of a Rule

- A. Any person may ask the Department to adopt a new rule or to amend or repeal an existing rule pursuant to A.R.S. § 41-1003 by filing a written petition with the Department's Director.
- B. The petition shall contain:
 1. The petitioner's name, current address, and daytime telephone number;
 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
 3. The specific language of the rule which the person wishes the Department to adopt, amend, or repeal;
 4. The reasons for the request including the reasons why any existing rule is inadequate, unreasonable, unduly burdensome, or otherwise improper;
 5. A copy of any material which is referenced or otherwise incorporated in the petition; and
 6. The signature of the petitioner.

- C. Upon receipt of a petition, the Director's Office shall stamp the petition to indicate the date of receipt.
- D. No later than 60 days after receipt of a petition, the Department shall send the petitioner written notice of the action taken on the petition.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).

Amended effective December 22, 1993 (Supp. 93-4).

R6-1-104. Proposed Rulemaking: Notices; Copy Fees; Fee Waiver

- A. A person who wishes to obtain a notice of the establishment of a rulemaking docket pursuant to A.R.S. § 41-1021(C), or a notice of proposed rulemaking pursuant to A.R.S. § 41-1022(C) shall file a written request for such notice with the Department. The request shall contain:
 - 1. The name and address of the requestor;
 - 2. A statement describing the nature of the notice being requested, directed either to proposed rulemaking in general or to specific rules or subject matter; and
 - 3. The signature of the requestor.
- B. The Office of the Department's Associate Director, or that person's successor, shall maintain a mailing list of all docket requests and requests for notice of proposed rulemaking. Requestors shall renew the request for notice by January 30 of each even-numbered year or the Department shall purge the request. It shall be the responsibility of the requestor to keep current any address and information filed with the Division
- C. The Department shall charge a fee of 25¢ per page to cover the actual costs of providing the requested information.
- D. The Department may waive the fee described in subsection (C) when:
 - 1. The requestor demonstrates that payment of the fee would cause the requestor financial hardship; or
 - 2. The Department is voluntarily providing information to a person who or an entity which has not requested it, for the purpose of receiving comment from that person or entity.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).

Amended effective December 22, 1993 (Supp. 93-4).

R6-1-105. Oral Proceedings; Request for; Nature of

- A. Oral proceedings scheduled pursuant to A.R.S. § 41-1023(A) shall be held in each of the districts established pursuant to A.R.S. § 41-1961.
- B. A written request for oral proceedings filed with the Department pursuant to A.R.S. § 41-1023(B) shall contain:
 - 1. The name, current address, and daytime telephone number of each requestor;
 - 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the requestor is representing as a registered lobbyist or otherwise;
 - 3. A statement identifying the rule for which the oral proceeding is requested; and
 - 4. The signature of each requestor.
- C. The petition may contain a proposed location for such proceeding. If such a location is included, the petition shall also explain how the proposed location will afford interested members of the public a reasonable opportunity to participate.
- D. Oral proceedings shall be conducted by a presiding officer in an informal manner and without adherence to the procedures of a trial-type or evidentiary hearing, as described in this subsection.

- 1. A person may make an oral presentation without being placed under oath or affirmation.
- 2. Any person who makes an oral presentation shall fill out a speaker's registration card prior to speaking.
- 3. The presiding officer shall conduct the proceeding in a way which avoids undue repetition and assures a reliable record on any proposed rulemaking.
- 4. Any person may file a written submission at an oral proceeding, in addition to or in lieu of oral presentations.
- 5. Prior to taking oral presentations, the presiding officer shall summarize the contents of the rule under consideration and the economic impact and small business statements filed with the rule.
- 6. Prior to the close of the record of the oral proceeding, the presiding officer shall summarize all subsequent rule-making steps, procedures, and time frames.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).

Amended effective December 22, 1993 (Supp. 93-4).

R6-1-106. Petition for Delayed Effective Date

- A. A person may petition the Department pursuant to A.R.S. § 41-1032(2) to delay the effective date of a rule.
- B. A petition for delayed effective date shall contain:
 - 1. The petitioner's name, current address, and daytime telephone number;
 - 2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
 - 3. A statement describing the effect the rule may have on the petitioner, and the reason why delaying the effective date of a rule to a specified date will lessen or eliminate that effect;
 - 4. The reasons why the public will not be harmed by the later effective date; and
 - 5. The signature of the petitioner.
- C. The Department shall mail the petitioner written notice of the Department's determination regarding the petition.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).

Amended effective December 22, 1993 (Supp. 93-4).

R6-1-107. Written Criticisms of Existing Rules

The Department shall retain written criticisms of existing rules which have been filed with the Department and shall consider such writings when conducting the five-year review required by A.R.S. § 41-1054.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3).

Amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 2. DEBT SETOFF**R6-1-201. Request for Review**

- A. A person indebted to the Department of Economic Security ("the Department"), who has had all or part of the debt set off pursuant to A.R.S. § 5-525(C) or 42-133(E) ("the debtor"), may request a review of the setoff.
- B. The request for review shall:
 - 1. Be in writing;
 - 2. Be filed with the Department office which set off the debt, at the address indicated on the notice of debt setoff ("the notice"), no later than 30 days after the mailing date of the notice;

3. List any prior judicial or administrative proceedings regarding the debt;
 4. Set forth all reasons why the setoff is inaccurate or improper;
 5. Be signed by the debtor or the debtor's authorized representative; and
 6. Have an attached copy of the notice of debt setoff.
- C.** As used in this Section, the date of the notice of debt setoff shall be the following dates, as applicable to the debtor:
1. The date that the State Lottery Office gives the debtor a written statement of winnings indicating the amount of the setoff; or
 2. The date of the written notice generated by the Department, advising the debtor of the setoff.
- D.** Notwithstanding subsection (B), the Department may consider a timely request for review which does not include all the documentation listed in subsection (B) if:
1. The debtor has good cause for failing to provide the information, and
 2. The lack of information does not substantially prejudice the Department's ability to evaluate the request.

Historical Note

Adopted as an emergency effective March 2, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former Section R6-1-101 adopted as an emergency effective March 2, 1984 now adopted without change as a permanent rule effective April 30, 1984 (Supp. 84-2). Former Section R6-1-101 renumbered without change as R6-1-201 (Supp. 88-3). Amended and subsections (B)(2) through (C) renumbered to Section R6-1-202 effective December 22, 1993 (Supp. 93-4).

R6-1-202. Review of Debt Setoff

- A.** The Director of the Department of Economic Security shall appoint representatives who shall conduct the review in accordance with A.R.S. § 5-525 or 42-133, as applicable, and in a manner which will observe the substantial rights of the debtor.
- B.** The Department shall limit the scope of its review to the identity of the debtor and the amount of the debt setoff when the validity of the debt was established by judicial review in a court of competent jurisdiction, agency hearing, or final administrative decision made in accordance with the law. If it is found that the debt was not established in accordance with one of the foregoing methods listed in this subsection, the setoff action shall be stayed and remanded to the appropriate Department authority for resolution. Unless otherwise prohibited by law, the Department may correct clerical errors that have occurred in the administration of the debt setoff.
- C.** In reviewing the debt setoff, the Department shall consider all relevant evidence, including, without limitation, evidence submitted by the debtor and the documents and records in the Department's files.
- D.** The Department shall dispose of a request for review by:
1. Dismissal, if the debtor fails to state with specificity in the request for review why the debt does not exist or why the amount of debt is incorrect;
 2. Withdrawal, if the debtor withdraws the request for review in writing at any time before the Department issues a decision; or
 3. Decision.
- E.** Every decision shall be in writing and shall be mailed to the last known address of the debtor or the debtor's authorized representative.
- F.** The Department's decision is final unless the debtor files a petition for judicial review with the Superior Court within 35 days of the date the decision is mailed to the debtor as pro-

vided in A.R.S. § 12-904. A debtor who files a petition for review shall mail a copy to the Department office which issued the decision.

Historical Note

Renumbered from R6-1-201(B)(2) through (C) and amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 3. GOOD CAUSE EXCEPTION FOR PROVIDER EMPLOYMENT OR USE OF EX-OFFENDERS

R6-1-301. Definitions.

In this Article unless the context otherwise requires:

1. "Department" means the Arizona Department of Economic Security.
2. "Direct contact with minors" means supervised and unsupervised interaction between provider personnel and minors in the provision of services.
3. "Filed with the Department" means receipt of a document by the Office of the Associate Director, or that person's successor, in the Department's central headquarters.
4. "License" means the whole or part of any agency permit, certificate, registration, or similar form of permission or authorization required by law.
5. "Licensee, contractor, or provider" means a person, corporation, partnership, or association with whom the Department, the Arizona Supreme Court, or the Department of Youth Treatment and Rehabilitation contracts, or which a state agency otherwise licenses, to provide services.
6. "Provider personnel" or "personnel" means paid or unpaid persons who have direct contact with minors and provide services to minors for a provider, including consultants, subcontractors, volunteers, students, and persons otherwise affiliated with the provider.
7. "Services" means the provision of care, treatment, evaluation, training, habilitation, and rehabilitation to minors for the abuse of alcohol, drugs, or other substances.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-302. Prior submission of fingerprints

Before the employment or use of personnel to provide services, a Department provider shall submit fingerprints of those personnel to the Department for a fingerprint check.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).

R6-1-303. Employment or Use of Ex-offenders in General

- A.** Personnel of Department providers who have not been cleared following a fingerprint check shall not be allowed to interact with minors unless an exception for good cause has been granted.
- B.** Any violation of subsection (A) shall be grounds for the termination of a contract for services and for denial, suspension, revocation, or refusal to renew a license.
- C.** This rule applies to provider personnel already employed or used by a provider on the effective date of these rules.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-304. Application for Exception for Good Cause

- A.** An application for an exception for good cause shall be filed pursuant to A.R.S. § 41-1954.01(D) and shall contain the

statements and documents referred to in subsections (B) and (C) below.

- B.** To apply for an exception for good cause, the applicant for employment shall provide the following documents to the provider:
1. A dated letter to the Department expressing the applicant's intent to seek a good cause exception and containing the applicant's full name, Social Security number, address, telephone number, and signature;
 2. The documents and notarized statement listed in A.R.S. § 41-1954.01(C);
 3. A copy of the following reports relevant to the applicant's prior offense:
 - a. Police report,
 - b. Indictment,
 - c. Plea agreement,
 - d. Pre-sentence investigation report,
 - e. Document containing conditions of probation or parole, and
 - f. Parole termination report, and
 4. A signed personal statement from the applicant explaining why the applicant believes that he is rehabilitated and should be permitted to work with minors.
- C.** If the information required by paragraph (B)(3) above is not available, the applicant shall separately address each unavailable document in the letter to the Department of Youth Treatment and Rehabilitation, the Arizona Supreme Court, or the Department of Economic Security, as appropriate, stating:
1. The time, place, and manner of requesting the document;
 2. Any knowledge the applicant may have regarding the content, author, and date of completion of the document; and
 3. The reason for the unavailability.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-305. Statement of Provider

- A.** If the provider decides to employ or use the applicant to provide the services, the provider shall then complete and file a separate statement with the Department of Youth Treatment and Rehabilitation, the Arizona Supreme Court, or the Department of Economic Security, as appropriate.
- B.** The provider's separate statement shall be part of the application and shall include:
1. The provider's name, address, telephone number, service contract number, and contract period, if applicable, and identification of any corporate statutory agent;
 2. The information listed in A.R.S. § 41-1954.01(D);
 3. A written statement explaining:
 - a. The provider's purpose and philosophy;
 - b. The age and type of minor to whom the applicant will render services;
 - c. The services to be provided;
 - d. The manner and method by which the applicant will provide the services;
 - e. The types of personnel responsible, supervision provided, and child/personnel ratio for each activity;
 - f. The methods of control and discipline which may be used with minors; and
 - g. With respect to the applicant:
 - i. Nature of affiliation with provider;
 - ii. Job title;
 - iii. Supervision provided;
 - iv. Responsibilities;

- v. Decisions which the applicant is authorized to make, specifying which, if any, require clearance from a supervisor;
- vi. Expected use of any unique or exceptional characteristics referred to in A.R.S. § 41-1954.01(E)(2); and

4. The signature of the provider or the provider's authorized representative and date of statement.

- C.** The Department shall return incomplete applications to the provider without action.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-306. Agency Submission to Director for Review

The Arizona Department of Youth Treatment and Rehabilitation and the Arizona Supreme Court shall submit applications for exception for good cause filed by a provider to the Director for review and decision.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-307. Review of the Application and Decision

- A.** The Director or the Director's designee shall review a complete application filed with the Department and issue a written decision to the submitting agency and the provider within 15 days of filing. Incomplete applications shall be returned to the provider without action.
- B.** The decision shall include:
1. Language granting or denying the application and the reason therefor; and
 2. Notice to the provider to prohibit the applicant's employment or use in the provision of services in the event of denial.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-308. Appeals

An applicant or provider aggrieved by a decision of the Director or the Director's designee may appeal to the DES Office of Appeals pursuant to the procedures contained in A.A.C. R6-5-2405, except that appeals from the decision of a hearing officer shall be in accordance with A.R.S. § 41-1992.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-309. Subsequent Offenses

The provider shall advise the Department in writing within three working days after the provider learns that any person who has been granted an exception for good cause has committed, been convicted of, or is pending trial for any criminal offense listed in A.R.S. §§ 8-230.02, 41-2814, or 46-141. Upon receipt of such information, the provider shall immediately prohibit the person from acting in any capacity requiring or allowing contact with juveniles.

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 4. FINGERPRINTING

R6-1-401. Definitions

In this Article, unless the context otherwise requires:

1. "Certification" means a status conferred by the Department upon personnel who have submitted required materials for fingerprint clearance, and who have been accordingly cleared, permitting them to provide services either with supervision or without supervision to juveniles.
2. "Certification form" means the notarized criminal history disclosure submitted to the Department as required by A.R.S. § 46-141(D).
3. "Department" means the Arizona Department of Economic Security.
4. "Direct visual supervision" means within sight and hearing of provider personnel with full certification.
5. "Full certification" means that personnel are certified to provide service directly to juveniles without supervision.
6. "Juvenile" means an individual who is under 18 years of age.
7. "License" means the whole or part of a Department permit, certificate, registration, or similar form of permission or authorization required by law but shall not include foster home licenses, child care home certifications, adoptive home certifications or licenses for facilities for developmentally disabled persons.
8. "Provider" means a federally recognized Indian tribe, county, political subdivision, military base, person, corporation, partnership or association with whom the Department contracts, or which the Department licenses, to provide services.
9. "Provider personnel" or "personnel" means paid or unpaid persons who have direct contact with juveniles and provide direct services to juveniles for a provider, including consultants, subcontractors, volunteers, students and persons otherwise affiliated with the provider.
10. "Restricted certification" means that personnel are certified to provide services to juveniles with supervision as authorized by A.R.S. § 46-141(G).
11. "Sanction" means denial, cancellation, revocation or termination of a license or contract.
12. "Services directly to juveniles" means in-person interaction between the personnel and the juvenile client.
13. "Supervision" means within sight and hearing at all times of a supervisor with full certification when providing services of any nature directly to juveniles, including psychological, medical or any ancillary services.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-402. Provider Responsibilities

- A. A provider shall submit to the Department the fingerprints, the completed certification form, the processing fee and any other documents required by the Department before provider personnel are allowed or required to provide services directly to juveniles.
- B. If a provider does not submit all the documents or the certification form required in subsection (A) above or submits incomplete documents, the Department shall return the documents to the provider. The provider shall prohibit personnel from providing services directly to juveniles until all the documents are completed and resubmitted to the Department.
- C. If personnel have been certified by the Department of Health Services, the Supreme Court or the Department of Youth Treatment and Rehabilitation to work for the provider, the provider shall submit a copy of the certification to the Department. That certification shall satisfy the certification requirements of this Article.

- D. A provider shall maintain a list of names of volunteers who will work only under direct visual supervision. The list shall be made available to the Department upon request.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-403. Exempt Providers

A federally recognized Indian tribe or military base provider is exempt from the provisions of this Article except R6-1-405 if the provider certifies in accordance with A.R.S. § 46-141(H).

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-404. Effect of Certification Form Disclosures

- A. Personnel who disclose conviction of, commission of or pending trial for an offense listed in A.R.S. § 46-141(F) shall not be allowed to provide services to juveniles.
- B. Personnel who disclose a conviction of or a pending trial for an offense listed in A.R.S. § 46-141(G) shall not be allowed to provide services directly to juveniles without supervision pending completion of the criminal history verification. Services may be provided with supervision.
- C. Personnel who disclose no convictions, pending trials or commission of any offenses listed in A.R.S. § 46-141(D) may provide services directly to juveniles without supervision pending completion of the criminal history verification.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-405. Costs

If the Department allows the costs of fingerprint checks as an allowable cost when negotiating a contract, the provider shall not then charge the cost of fingerprinting to its personnel.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-406. Certification and Sanctions

- A. The Department shall grant certification to provider personnel whose criminal records check discloses no criminal history as proscribed by A.R.S. § 46-141.
- B. The Department shall deny certification to personnel who disclose, or whose criminal history check shows, that they have committed, been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(F).
- C. The Department shall grant restricted certification to personnel who disclose, or whose criminal records check shows, that they have been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(G).
- D. Personnel who are awaiting trial on any of the crimes listed in A.R.S. § 46-141, and whose certification is denied or restricted as a result of the pending charges, may, upon a showing of acquittal, dismissal, or conviction of a lesser nonlisted crime, resubmit pursuant to R6-1-402.
- E. The Department shall notify the provider and provider's personnel of the denial of certification or the granting of full or restricted certification. A provider which places provider personnel who have disclosed a criminal history on the certification form which would allow only a restricted certification in a job position requiring or allowing the personnel to provide services directly to juveniles without supervision shall be subject to sanction.
- F. A provider which allows volunteers who are exempted from the certification requirements by A.R.S. § 46-141(I) to provide services to juveniles without direct visual supervision shall be subject to sanction.

- G. A provider which fails to provide direct visual supervision at all times of volunteers exempted from the certification requirements by A.R.S. § 46-141(I) shall be subject to sanction.
- H. A provider which fails to provide supervision at all times to personnel granted a restricted certification pursuant to A.R.S. § 46-141 shall be subject to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-407. Effect of Confirmed Proscribed Criminal History

- A. Denial: Upon notification by the Department of denial of certification, the provider shall immediately prohibit those personnel from providing services in any capacity allowing provision of direct services to juveniles, or the employer's license or contract shall be subject to sanction.
- B. Restriction: Upon notification by the Department of restricted certification, the provider shall prohibit these personnel from unsupervised contact with juveniles or the provider's license or contract shall be subject to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-408. Certification Expiration

- A. A certification is valid for the full period of time that personnel are continuously employed by, or volunteer for, the provider unless it is revoked.
- B. A certification shall be revoked if the Department receives information that provider personnel have been convicted of, committed, or are awaiting trial for an offense listed in A.R.S. § 46-141.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-409. Subsequent Offenses

- A. The provider shall notify the Department in writing within three working days after the provider receives information that any person who has been certified has committed, been convicted of, or is awaiting trial for any criminal offense listed in A.R.S. § 46-141(F).
 - 1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
 - 2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing contact with juveniles.
- B. The provider shall notify the Department, in writing, within three working days after the provider receives information that any person who has been certified has been convicted of, or is awaiting trial for, any criminal offense listed in A.R.S. § 46-141(G).
 - 1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
 - 2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing unsupervised contact with juveniles.
- C. Failure to notify the Department as required in subsections (A) and (B) above shall subject the provider to sanction.

Historical Note

Adopted effective December 2, 1992 (Supp. 92-4).

ARTICLE 5. CIVIL RIGHTS**R6-3-103. Civil Rights**

- A. Statement of compliance: Pursuant to the provisions of the Civil Rights Act of 1964, no person in the state of Arizona will be excluded from participation in, denied the benefits of, or

subjected to discrimination under assistance payments programs on the basis of race, color, religion, sex, or national origin. The Department shall administer such programs in accordance with the laws, regulations, policies, and practices enumerated in the paragraphs below.

- B. Definition of compliance: The Department shall follow policies and practices including, but not limited to, those described below.
 - 1. No individual will, on the basis of race, color, religion, sex, or national origin, be denied any benefit provided under an assistance payment program, or be provided a benefit which is different, or in a different manner, from that provided to others under the same program.
 - 2. No individual will, on the basis of race, color, religion, sex, or national origin, be subjected to segregation or separate treatment in any manner related to receipt of any benefit under an assistance payments program, nor will an individual be restricted in any way from any advantage or privilege enjoyed by others receiving benefits under the same program. This includes any distinction with respect to spaces provided for service, waiting rooms, and restrooms. Neither will separate times be set aside on the basis of race, color, religion, sex, or national origin for the provision of assistance.
 - 3. Employees of the Department will not be assigned case-loads or clientele on the basis of race, color, religion, sex, or national origin of the persons being assisted.
 - 4. Criteria or methods of administration shall not subject individuals to discrimination or defeat or substantially impair the objectives of an assistance payments program on the basis of the individual's race, color, religion, sex, or national origin.
 - 5. The Department shall conduct assistance payments programs in accordance with the requirements of existing laws and regulations, which shall extend not only to those activities which are conducted directly by the Department but also to all related activities which are conducted by other agencies, institutions, organizations, political subdivisions, and vendors.
 - 6. The Department shall maintain records and submit reports as required by federal authorities to assure compliance with regulations. During normal business hours of the Department, access will be permitted to its facilities, records, and other sources of information as may be pertinent to as certain compliance with regulations.
 - 7. The Department will make available to applicants, recipients, and public officials that information required by federal authorities to appraise such persons of the protections against discrimination assured them by the Civil Rights Act of 1964.
- C. Methods of administration
 - 1. The Department shall inform and instruct its staff of obligations under the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance by:
 - a. Making copies of all pertinent documents available to the entire staff.
 - b. Conducting, as a regular part of the In-service Training Program:
 - i. Meetings to explain to all staff personnel the intent and meaning of such documents and to instruct them in their obligation to carry out the policies contained therein.
 - ii. Orientation of new staff personnel regarding their responsibilities to comply with the Civil Rights Act of 1964.

- iii. Periodic reminders of Civil Rights Act requirements in appropriate staff meetings and memoranda or other official correspondence.
 - iv. Cultural awareness training to all staff personnel concerning ethnic differences among various groups residing in Arizona who comprise the Department's clientele.
 - v. Constant review of practices and policies to assure that no individual is discriminated against because of race, color, religion, sex, or natural origin.
2. The Department will inform and instruct other appropriate agencies, institutions, organizations, political subdivisions, and vendors of their obligations to comply with the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance filed by the Department as a condition to their initial or continued financial participation in any assistance payments program. This will be accomplished by:
- a. Making clear the requirements of the Civil Rights Act and implementing regulations and policies to fulfill these requirements.
 - b. Determining that the agency, institution, organization, political subdivision, or vendor has executed an assurance in the form prescribed by federal authorities which is currently effective and applicable to the program under which the activity is conducted. This includes the use of memoranda which verifies specific obligations and undertakings or certification of compliance on each voucher presented to the Department for payment. Regular on-the-spot checks will be made by the Department's staff to assure compliance by any other agency, institution, organization, political subdivision, or vendor participating in an assistance payments program.
 - c. The Department will inform its clientele and other interested persons that financial assistance and other program benefits are provided on a non-discriminatory basis and of their right to file a complaint with the Department, the federal authorities, or both, if they believe that discrimination on the basis of race, color, religion, sex, or national origin is practiced. Informing clientele will be accomplished by furnishing a written notice and the Statement of Compliance to all clientele and other interested persons.
 - d. All complaints alleging discrimination because of race, color, religion, sex, or national origin shall be filed in writing, shall describe the type of discrimination alleged, indicate when and where such alleged discrimination occurred, and describe any pertinent facts and circumstances relating to the alleged discrimination. The complaint shall be signed by the complainant. All complaints shall be addressed to the Director of the Department of Economic Security, who will initiate a thorough investigation through established procedure. After the complaint has been investigated, the Director shall determine whether or not any discriminatory practice has occurred. If appropriate, the Director will take such action as the Director deems necessary to correct past practices and prevent future recurrence of such discrimination. The Department shall cease making referrals or vendor payments to any entity which does not fully comply with the Civil Rights Act of 1964. The complainant shall be advised in writing of the Department's determination regarding the complaint.
- i. The Department will maintain a file of approved facilities, agencies, resources, and vendors who have executed Statements of Compliance with the Civil Rights Act of 1964. Verified complaints will be referred by the Department for corrective action. If, after a reasonable time, such corrective action has not been taken, the Department will advise and remove the facility, agency, or vendor from its approved list of resources.
 - ii. The Department will maintain adequate records to show action taken as a result of each complaint and will make this information available to appropriate federal authorities.
 - iii. Department employees who receive anonymous verbal complaints are required to report them to their supervisor. The supervisor will decide upon further action to be taken in such cases.
- e. At least once each year, or more frequently for those cases in which discriminatory practices are alleged or suspected, a representative of the Department will visit institutions, organizations, political subdivisions, or vendors who participate in a program to verify that their practices conform to the Civil Rights Act and the regulations issued pursuant thereto and as reflected in the Statement of Compliance. The Department will periodically determine if discriminatory practices are engaged in by its personnel and will take corrective action as required to insure that actions are in compliance with the Civil Rights Act and regulations issued pursuant thereto, as reflected in the Statement of Compliance.
 - f. Policies and procedures will provide effective verbal and written communication with non-English-speaking applicants and recipients. These policies and procedures will be made known to all Department employees. Supervisors will be required to insure that their staff complies with such policies and procedures.
 - g. Assistance payments program information will be disseminated to the general public, using appropriate and effective media to reach minority populations.
 - h. Department advisory committees will include representatives of racial and ethnic minority groups to the extent feasible.
 - i. The Department shall provide data revealing the extent to which members of minority groups are beneficiaries of, participants in, or both, federally funded assistance payments programs.

Historical Note

R6-1-501 recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).

TITLE 6. ECONOMIC SECURITY**CHAPTER 2. DEPARTMENT OF ECONOMIC SECURITY
EMPLOYMENT AND TRAINING**

(Authority: A.R.S. § 41-1954 et seq.)

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R6-2-101 through R6-2-103, adopted effective December 20, 1994 (Supp. 94-4).

Article 1, consisting of Sections R6-2-101 through R6-2-112, repealed effective December 20, 1994 (Supp. 94-4).

Section

R6-2-101.	Definitions
R6-2-102.	Complaints
R6-2-103.	Hearings and Appeals
R6-2-104.	Policy of Nondiscrimination; Schedule of Services

**ARTICLE 2. EMPLOYMENT SERVICES PROVIDED BY
THE DEPARTMENT**

Article 2, consisting of Sections R6-2-201 through R6-2-210, adopted effective December 20, 1994 (Supp. 94-4).

Article 2, consisting of Sections R6-2-201 through R6-2-210, repealed effective December 20, 1994 (Supp. 94-4).

Section

R6-2-201.	Worker Services
R6-2-202.	Employer Services
R6-2-203.	America's Job Bank
R6-2-204.	Use of Employment Testing Materials by Other Nonprofit Agencies
R6-2-205.	Repealed
R6-2-206.	Repealed
R6-2-207.	Repealed
R6-2-208.	Repealed
R6-2-209.	Repealed
R6-2-210.	Repealed

ARTICLE 3. REPEALED

Article 3, consisting of Sections R6-2-301 through R6-2-304, repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

Article 3, consisting of Sections R6-2-301 through R6-2-304, adopted effective December 20, 1994 (Supp. 94-4).

Article 3, consisting of Sections R6-2-301 through R6-2-303, repealed effective December 20, 1994 (Supp. 94-4).

Section

R6-2-301.	Repealed
R6-2-302.	Repealed
R6-2-303.	Repealed
R6-2-304.	Repealed

**ARTICLE 4. OTHER EMPLOYMENT SERVICES AND
PROGRAMS**

Article 4, consisting of Sections R6-2-401 and R6-2-402, adopted effective December 20, 1994 (Supp. 94-4).

Article 4, consisting of Sections R6-2-401 through R6-2-409, repealed effective December 20, 1994 (Supp. 94-4).

Section

R6-2-401.	Repealed
R6-2-402.	Apprentice Program Services

ARTICLE 5. RESERVED**ARTICLE 6. REPEALED**

Article 6, consisting of Sections R6-2-601 through R6-2-620, repealed effective July 30, 1993 (Supp. 93-3).

ARTICLE 1. GENERAL PROVISIONS**R6-2-101. Definitions**

The following definitions apply to this Chapter:

1. "America's Job Bank" means a nationwide computer database linking more than 1800 local Employment Service offices. The services of America's Job Bank are available to job seekers and employers via the Internet.
2. "Applicant" means a person who has applied to the Department for worker services and who is a United States citizen or a non-citizen who is legally authorized to work in the United States.
3. "Apprentice" means a worker who is at least age 16 if a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade under standards of apprenticeship that meet the requirements of 29 CFR 29.5 (Office of the Federal Register, National Archives and Records Administration, July 1, 1998), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
4. "Apprenticeship agreement" means a written agreement between an apprentice and an employer or a committee acting on behalf of the employer, containing the terms and conditions for employment of the apprentice.
5. "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.
6. "Apprenticeship program registration" means the acceptance and centralized recording of an apprenticeship program by the ESA that meets the basic standards and requirements established for apprenticeship programs under federal law.
7. "Apprenticeship program sponsor" means a person, association, committee, or organization operating an apprenticeship program and in whose name the program is registered and approved.
8. "BFOQ" or "bona fide occupational qualification" means a finding by an employer that age, sex, national origin, or religion is a characteristic necessary to an individual's ability to perform the job.
9. "Department" means the Arizona Department of Economic Security.
10. "DOT" or "Dictionary of Occupational Titles" means the reference work published by the United States Employment Service, which contains brief, non-technical definitions of job titles, distinguishing numeric codes, and worker trait data.
11. "Disabled veteran" means:

- a. A veteran who is entitled to compensation under laws administered by the United States Secretary of Veterans Affairs, or
- b. A person who is discharged or released from active military duty because of a service-connected disability.
12. "Employer job referral services" means Department activities that help an employer obtain workers with the occupational qualifications needed by the employer.
13. "Employment counseling" means formulation of a vocational plan that is consistent with a person's vocational skills and interests, and advice on appropriate measures for implementation of that plan.
14. "Employment test" means a standardized method or device for measuring a person's possession of, interest in, or ability to acquire job skills and knowledge.
15. "ESA" or "Employment Security Administration" means the administrative unit within the Department's Division of Employment and Rehabilitation Services with responsibility for all worker and employer services.
16. "Essential functions of a job" means the fundamental job duties of a particular employment position.
17. "Geographic labor clearance" means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between geographical areas.
18. "Industrial analysis services" means Department activities to assist employers and labor organizations in determining the cause of worker resource problems in a particular business, and provision of information developed by the USES for resolving such problems.
19. "Job bank" means a computerized list of all currently available jobs and employment opportunities listed with the Department.
20. "Job development" means the process by which the Department obtains a job or interview with an employer for a specific applicant for whom the local ESA office has no suitable job opening on file.
21. "Job order" means a request by an employer for the referral of job seekers made available to job seekers via the Department's Job Bank.
22. "JTPA" means the federal Job Training Partnership Act found at 29 U.S.C. 1501 et seq.
23. "Labor market area" means a geographic area consisting of a central city, or group of cities, and the surrounding territory within a reasonable commuting distance.
24. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
25. "Occupational labor clearance" means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between occupations and industry types.
26. "Older worker" means a person age 40 or older who is working or who is unemployed and wishes to work.
27. "Person with a disability" or "disabled worker" means a person who:
 - a. Has a physical or mental impairment that substantially limits 1 or more of that person's major life activities;
 - b. Has a record of such an impairment; or
 - c. Is regarded as having such an impairment.
28. "Physical or mental impairment" means:
 - a. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting 1 or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
 - b. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
29. "Placement" means that a public or private employer has hired an applicant that the Department referred to the employer for a job or interview.
30. "Qualified worker" means a worker who possesses the skills, knowledge, and abilities to perform the essential functions of a job.
31. "Reasonable accommodation" means a modification of, or an adjustment to a process, position, or term of employment, that will permit a disabled worker to enjoy the same benefits and privileges of employment as those enjoyed by persons without disabilities.
32. "Substandard work order" means a work order:
 - a. Containing employment terms that violate employment-related laws, or
 - b. Offering work at wages or conditions that are substantially inferior to those generally prevailing in the labor market area for the same or similar work.
33. "Substantially limits" when used in reference to a disability, means:
 - a. Unable to perform a major life activity that the average person in the general population can perform; or
 - b. Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
34. "Targeted jobs tax credit" means an income tax credit available to businesses that hire persons whom ESA has certified as meeting certain criteria described in 26 U.S.C. 51 (Office of the Federal Register, National Archives and Records Administration, August 10, 1993), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
35. "USES" means the United States Employment Service, which is the unit in the United States Department of Labor's Employment and Training Administration designed to promote a national system of public job service offices.
36. "Veteran" means a person who served in the active military service, and who was discharged or released from service under conditions other than dishonorable.
37. "Vocational plan" means a plan developed jointly by an ESA counselor or counselor-trainee and an applicant that describes:
 - a. The applicant's short-range and long-range occupational goals, and
 - b. The actions to be taken to implement the plan.
38. "Worker" means a U.S. citizen or a non-citizen who is legally authorized to work in the United States and who is employed or who is unemployed and wishes to work.
39. "Worker services" means the functions the Department performs for the benefit of applicants and workers, including employment counseling, employment testing,

Department of Economic Security - Employment and Training

preparation of a vocational plan, and referral for employment opportunity.

40. "Worker job referral services" means Department activities to help a worker promptly obtain a job for which the worker is occupationally qualified.
41. "Youth worker" means a worker younger than age 22.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-102. Complaints

The Department shall process all complaints related to the provision of employment services under 20 CFR 658.400 through 658.416 (Office of the Federal Register, National Archives and Records Administration, April 1, 1998), which are incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-103. Hearings and Appeals

The Department shall conduct any hearing or appeal to which an employer, applicant, or worker may be entitled under applicable state or federal employment services laws, and 20 CFR 658.417 and 658.418 (Office of the Federal Register, National Archives and Records Administration, April 1, 1998), which are incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-104. Policy of Nondiscrimination; Schedule of Services

In the administration of the state employment office, the Department shall:

- A. Not discriminate against any applicant or employer because of age, race, sex, color, religious creed, national origin, disability or political affiliation or belief unless a BFOQ exists;
- B. Actively promote employment opportunities for disadvantaged workers and encourage employers to hire workers on the basis of objective qualifications; and
- C. Use the following priority schedule to select and refer qualified applicants for work:
 1. Disabled veteran applicants;
 2. Other veteran applicants;
 3. Other applicants.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

New Section adopted by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-105. Repealed**Historical Note**

Adopted effective September 24, 1974 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-106. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-107. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-108. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-109. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-110. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-111. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-112. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed effective December 20, 1994 (Supp. 94-4).

ARTICLE 2. EMPLOYMENT SERVICES PROVIDED BY THE DEPARTMENT

R6-2-201. Worker Services

- A. As permitted by available resources, the Department shall provide services to a worker who is a United States citizen or a non-citizen authorized to work in the United States. The services include but are not limited to the following:
 1. Employment counseling;
 2. Aptitude testing;
 3. Apprenticeship training; and
 4. Job referral services.
- B. A worker applying for services shall file an application with the Department. The application shall include the worker's:
 1. Name, address, telephone number, social security number, and date of birth;
 2. Prior work experience, including information on salary, job duties, and any past military service;
 3. Educational background, including technical or other vocational training the worker has completed;
 4. Career goals, hobbies, and volunteer work;

5. Availability for work, including a willingness to travel or relocate, desire for full or part-time employment, and desired working hours; and
 6. Special skills or proficiencies, including a language other than English or the use of equipment.
- C. The Department shall obtain information about a worker's disability as is necessary to provide the worker with appropriate services. This information may include asking the worker whether the worker can perform the essential functions of a particular job, with or without reasonable accommodation.
- D. When the Department conducts employment testing, the Department shall:
1. Use only standardized tests and techniques approved by the United States Employment Service; and
 2. Not release the results of the tests without the written consent of the tested worker.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-202. Employer Services

- A. The Department shall require the following information from an employer who places a job order:
1. A description of the essential functions of the job in sufficient detail to permit the Department to ascertain the qualifications a worker needs to satisfactorily perform the work, with or without reasonable accommodation;
 2. An employer's hiring requirements, including the type of license or certification needed, or the type of equipment or tools the worker must supply;
 3. The terms and conditions of work, including hours, salary, benefits, promotional opportunities, and travel requirements;
 4. The job location and instructions for arranging a job interview.
- B. The Department shall refer workers to the employer who most closely match the requirements in the job order. If qualified workers are not available from the Department's files and, if resources are available, the Department shall recruit qualified workers to fill the employer's order.
- C. The Department shall not accept a job order from an employer for processing if:
1. The employer's requirements are discriminatory based on age, sex, national origin, or religion, unless the discriminatory characteristic is a bona fide occupational qualification necessary to perform the job. An example of a bona fide occupational qualification that is not discriminatory is the requirement for a female worker in a female intimate apparel retail outlet.
 2. The terms and conditions of work are substandard under A.R.S. § 23-776(C)(2).
 3. The position is vacant due directly to a strike, lockout, or other labor dispute or conflict between employers and workers, including wage disputes and collective bargaining efforts.
 4. A worker is required to pay a fee for the job.
- D. If an employer refuses to modify a job order deemed unacceptable by subsection (C), the Department shall notify the employer in writing of discontinuance of services. The notification shall include the employer's right of appeal.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December

20, 1994 (Supp. 94-4). Section repealed, new Section adopted at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-203. America's Job Bank

- A. The Department shall recommend that an employer doing business in Arizona be denied access to America's Job Bank if:
1. The employer is delinquent in the payment of unemployment insurance taxes; or
 2. The position the employer is attempting to fill is vacant due directly to a strike, lockout, or other labor dispute or conflict between employers and workers, including wage disputes and collective bargaining efforts.
- B. An employer that is denied access to America's Job Bank may appeal the denial under R6-2-103.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-204. Use of Employment Testing Materials by Other Nonprofit Agencies

Upon written request, the Department shall make employment testing materials approved by the United States Employment Service available to nonprofit vocational guidance and placement agencies and organizations, provided the agency or organization:

- A. Has personnel trained in the administration and interpretation of the tests;
- B. Provides the Department with written verification of the agency's or organization's nonprofit status; and
- C. Signs a release agreeing to the proper use of the testing materials and test results.

Historical Note

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-205. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-206. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-207. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-208. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-209. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-210. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

ARTICLE 3. REPEALED**R6-2-301. Repealed****Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Former Section R6-2-301 repealed, new Section R6-2-301 adopted effective May 2, 1978 (Supp. 78-3). *Apprenticeship Program Handbook* amended effective August 8, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-302. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-303. Repealed**Historical Note**

Adopted effective September 24, 1975 (Supp. 75-1). Amended effective May 6, 1976 (Supp. 76-3). Amended effective August 1, 1979 (Supp. 79-4). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-304. Repealed**Historical Note**

Adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

ARTICLE 4. OTHER EMPLOYMENT SERVICES AND PROGRAMS**R6-2-401. Repealed****Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section

repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-402. Apprentice Program Services

A. ESA shall serve as the recognized state apprenticeship agency as described in 29 CFR 29.2(o) (Office of the Federal Register, National Archives and Records Administration, July 1, 1998), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona. ESA shall administer the state's apprenticeship program in accordance with 29 CFR 29 (Office of the Federal Register, National Archives and Records Administration, July 1, 1998), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.

B. In its capacity as the recognized agency, ESA shall:

1. Approve apprenticeship program standards,
2. Review apprenticeship agreements to determine whether the agreements should be approved,
3. Assist in developing apprenticeship program standards,
4. Review apprenticeship program standards to determine whether they should be approved,
5. Review the wages paid to participants in an apprenticeship program, and
6. Maintain a statewide registration system for apprenticeship programs.

Historical Note

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed, new Section adopted effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2155, effective June 18, 1999 (Supp. 99-2).

R6-2-403. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-404. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-405. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-406. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-407. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-408. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

R6-2-409. Repealed**Historical Note**

Adopted effective August 3, 1978 (Supp. 78-4). Section repealed effective December 20, 1994 (Supp. 94-4).

ARTICLE 5. RESERVED**ARTICLE 6. REPEALED****R6-2-601. Repealed****Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-602. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-603. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-604. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-605. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-606. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-607. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-608. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-609. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5).

Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-610. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-611. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-612. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-613. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-614. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-615. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-616. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-617. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-618. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-619. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

R6-2-620. Repealed**Historical Note**

Adopted effective September 27, 1979 (Supp. 79-5). Repealed effective July 30, 1993 (Supp. 93-3).

TITLE 6. ECONOMIC SECURITY**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
UNEMPLOYMENT INSURANCE****ARTICLE 1. RECODIFIED**

Article 1, consisting of Section R6-3-103, recodified to R6-1-501, effective February 13, 1996 (Supp. 96-1). [R6-3-101, R6-3-102, and R6-3-104 previously repealed.]

Section

R6-3-101.	Repealed
R6-3-102.	Repealed
R6-3-103.	Recodified
R6-3-104.	Repealed

ARTICLE 2. RECODIFIED

Article 2, consisting of Sections R6-3-201 through R6-3-207, R6-3-209, R6-3-211, R6-3-212, and R6-3-214 through R6-3-216, recodified to A.A.C. R6-13-201 through R6-13-207, R6-13-209, R6-13-211, R6-13-212, and R6-13-214 through R6-13-614, effective February 13, 1996 (Supp. 96-1). [Sections R6-3-208, R6-3-210, and R6-3-213 previously repealed.]

ARTICLE 3. RECODIFIED

Article 3, consisting of Sections R6-3-301 through R6-3-307, R6-3-309 through R6-3-311, R6-3-313, R6-3-314, R6-3-314.01, R6-3-315, R6-3-316, and R6-3-318 through R6-3-322, recodified to A.A.C. R6-13-301 through R6-13-307, R6-13-609 through R6-13-311, R6-13-313, R6-13-314, R6-13-314.01, R6-13-315, R6-13-316, and R6-13-318 through R6-13-322 effective February 13, 1996 (Supp. 96-1). [Sections R6-3-308, R6-3-312, R6-3-317, R6-3-324, and R6-3-325 previously repealed.]

ARTICLE 4. REPEALED

Article 4 repealed as follows: R6-3-416, R6-3-417, and R6-3-419 repealed effective March 26, 1976; R6-3-434 and R6-3-435 repealed effective October 13, 1977; R6-3-410 repealed effective June 15, 1978; and R6-3-401 through R6-3-409, R6-3-411 through R6-3-415, R6-3-418, and R6-3-420 through R6-3-433 repealed effective November 9, 1995.

ARTICLE 5. REPEALED

Article 5, consisting of Sections R6-3-501 through R6-3-510 and R6-3-512 through R6-3-517, repealed effective November 9, 1995 (Supp. 96-1).

ARTICLE 6. RECODIFIED

Article 6, consisting of Sections R6-3-601 through R6-3-604, recodified to R6-13-601 through R6-13-604 effective February 13, 1996 (Supp. 96-1). [Sections R6-3-605 through R6-3-615 previously repealed.]

ARTICLE 7. RECODIFIED

Article 7, consisting of Section R6-3-701, recodified effective February 13, 1996 (Supp. 96-1).

Article 7 consisting of Section R6-3-701 adopted effective January 10, 1985.

Former Article 7 consisting of Sections R6-3-701 through R6-3-705, R6-3-707 through R6-3-716 and R6-3-720 repealed effective January 10, 1985.

ARTICLE 8. RECODIFIED

Article 8, consisting of Sections R6-3-801 through R6-3-809, recodified to A.A.C. R6-13-801 through R6-13-809 effective February 13, 1996 (Supp. 96-1).

Article 8, consisting of Sections R6-3-801 through R6-3-809, adopted effective October 27, 1993 (Supp. 93-4).

Article 8, consisting of Sections R6-3-801 through R6-3-806, repealed effective October 27, 1993 (Supp. 93-4).

ARTICLE 9. RECODIFIED

Article 9, consisting of Sections R6-3-901 through R6-3-922, recodified to A.A.C. R6-13-901 through R6-13-922 effective February 13, 1996 (Supp. 96-1).

ARTICLE 10. REPEALED

Article 10, consisting of Sections R6-3-1001 through R6-3-1015, repealed effective November 9, 1995 (Supp. 95-4).

Article 10, consisting of Sections R6-3-1001 through R6-3-1015, adopted effective March 26, 1976.

Former Article 10, consisting of Sections R6-3-1001 through R6-3-1021, repealed effective March 26, 1976.

ARTICLE 11. REPEALED

Article 11 consisting of Sections R6-3-1101 through R6-3-1111 repealed effective March 26, 1976.

ARTICLE 12. RECODIFIED

Article 12, consisting of Sections R6-3-1201 through R6-3-1204 and R6-3-1206 through R6-3-1213, recodified to A.A.C. R6-13-1201 through R6-13-1204 and R6-13-1206 through R6-13-1213 effective February 13, 1996 (Supp. 96-1). [R6-3-1205 previously repealed.]

ARTICLE 13. DEFINITIONS

Section

R6-3-1301. Definitions

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

Section

R6-3-1401.	Policy of Nondiscrimination
R6-3-1402.	Repealed
R6-3-1403.	Disclosure of Information and Confidentiality
R6-3-1404.	Date of submission and extension of time for payments, appeals, notices, etc.
R6-3-1405.	Shared Work
R6-3-1406.	Employer Elections to Cover Multi-State Workers
R6-3-1407.	Interested Parties
R6-3-1408.	Seasonal Employment Status: Qualified Transient Lodging Employment

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

Section

R6-3-1501.	Renumbered
R6-3-1502.	Appeals Process, General
R6-3-1503.	Proceedings Before an Appeal Tribunal
R6-3-1504.	Review of Appeal Tribunal Decisions
R6-3-1505.	Appeals Board Proceedings
R6-3-1506.	Contribution Cases
R6-3-1507.	Appeals from Labor Dispute Determinations

ARTICLE 16. FUNDS

Section

R6-3-1601.	Transfers and warrants
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ARTICLE 17. CONTRIBUTIONS

Section

- R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona
- R6-3-1702. Maintenance and inspection of records
- R6-3-1703. Employer reports
- R6-3-1704. Due date of quarterly reports, contributions, and payments in lieu of contributions
- R6-3-1705. Wages
- R6-3-1706. Combining included and excluded services
- R6-3-1707. Repealed
- R6-3-1708. Employer Charges
- R6-3-1709. Part-time Employment -- Employer Responsibilities
- R6-3-1710. Notification and review of charges to experience rating accounts
- R6-3-1711. Computation of experience rates
- R6-3-1712. Joint, Multiple and Combined Employer Experience Rating Accounts
- R6-3-1713. Business transfers
- R6-3-1714. Repealed
- R6-3-1715. Computation of adjusted contribution rates
- R6-3-1716. Voluntary contributions
- R6-3-1717. Special Provisions for Reimbursement Employers
- R6-3-1718. Employer Refunds
- R6-3-1719. Repealed
- R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers
- R6-3-1721. Liability determinations; review; finality
- R6-3-1722. Casual labor
- R6-3-1723. Employee defined
- R6-3-1724. Repealed
- R6-3-1725. Licensed real estate, insurance, security and cemetery salesmen
- R6-3-1726. Tips as wages
- R6-3-1727. Meals or lodging as wages

ARTICLE 18. BENEFITS

Section

- R6-3-1801. Repealed
- R6-3-1802. Repealed
- R6-3-1803. Benefit Notice and Determination
- R6-3-1804. Repealed
- R6-3-1805. Repealed
- R6-3-1806. Interstate Claimants
- R6-3-1807. Repealed
- R6-3-1808. Payment on Account of Retirement
- R6-3-1809. Eligibility for Approved Training
- R6-3-1810. Qualifications
- R6-3-1811. Redetermination of benefits
- R6-3-1812. Interest on benefit overpayments
- R6-3-1813. Overpayment Deduction Percentage

ARTICLE 19. RECODIFIED

Article 19, consisting of Sections R6-3-1901 through R6-3-1911, recodified to A.A.C. R6-14-101 through R6-14-111 effective February 13, 1996 (Sup. 96-1). [Sections R6-3-1912 through R6-3-1916 previously repealed.]

Article 19, consisting of Sections R6-3-1901 through R6-3-1911, adopted effective May 24, 1979.

Former Article 19, consisting of Sections R6-3-1901 through R6-3-1916, repealed effective May 24, 1979.

ARTICLE 20. RECODIFIED

Article 20, consisting of Sections R6-3-2001 through R6-3-2018, recodified to A.A.C. R6-14-201 through R6-14-218 effective

February 13, 1996 (Supp. 96-1). [R6-3-2019 and R6-3-2020 previously repealed.]

Article 20, consisting of Sections R6-3-2001 through R6-3-2018, adopted effective May 24, 1979.

Former Article 20, consisting of Sections R6-3-2001 through R6-3-2020, repealed effective May 24, 1979.

ARTICLE 21. RECODIFIED

Article 21, consisting of Sections R6-3-2101 through R6-3-2120 and R6-14-2122 through R6-3-2127 recodified to A.A.C. R6-14-301 through R6-14-320 and R6-14-322 through R6-14-328, effective February 13, 1996 (Supp. 96-1). [R6-3-2121 and R6-3-2128 through R6-3-2140 previously repealed.]

Article 21 consisting of Sections R6-3-2101 through R6-3-2128 adopted effective May 24, 1979.

Former Article 21 consisting of Sections R6-3-2101 through R6-3-2140 repealed effective May 24, 1979.

ARTICLE 22. RECODIFIED

Article 22, consisting of Sections R6-3-2201 and R6-3-2203, recodified to A.A.C. R6-14-401 and R6-14-402 effective February 13, 1996 (Supp. 96-1). [R6-3-2202 and R6-3-2204 through R6-3-2225 previously repealed.]

Article 22 consisting of Sections R6-3-2201 through R6-3-2203 adopted effective May 24, 1979.

Former Article 22 consisting of Sections R6-3-2201 through R6-3-2225 repealed effective May 24, 1979.

ARTICLE 23. RECODIFIED

Article 23, consisting of Sections R6-3-2301 through R6-3-2307, recodified to A.A.C. R6-14-501 through R6-14-507 effective February 13, 1996 (Supp. 96-1). [R6-3-2308 through R6-3-2320 previously repealed.]

ARTICLE 24. RECODIFIED

Article 24, consisting of Sections R6-3-2401, R6-3-2402, R6-3-2404 through R6-3-2408, and R6-3-2410, recodified to A.A.C. R6-14-601, R6-14-602, R6-14-604 through R6-14-608, and R6-14-610 effective February 13, 1996 (Supp. 96-1). [R6-3-2403 previously repealed.]

Article 24 consisting of Sections R6-3-2401 through R6-3-2410 adopted effective May 24, 1979.

Former Article 24 consisting of Sections R6-3-2401 through R6-3-2403 repealed effective May 24, 1979.

ARTICLE 25. REPEALED

Article 25, consisting of Sections R6-3-2501 through R6-3-2507, repealed effective September 12, 1997 (Supp. 97-3).

Article 25 consisting of Sections R6-3-2501 through R6-3-2507 adopted as an emergency effective March 5, 1984, expired. New Article 25 consisting of Sections R6-3-2501 through R6-3-2507 adopted as a permanent Article effective June 29, 1984 (Supp. 84-3).

Former Article 25 consisting of Sections R6-3-2501 through R6-3-2515 repealed effective May 24, 1979 (Supp. 84-2).

ARTICLE 26. REPEALED

Former Article 26 consisting of Sections R6-3-2601 through R6-3-2623 repealed effective May 24, 1979.

ARTICLE 27. REPEALED

Former Article 27 consisting of Section R6-3-2701 repealed effective May 24, 1979.

Department of Economic Security - Unemployment Insurance

ARTICLE 28. RESERVED**ARTICLE 29. RESERVED****ARTICLE 30. RESERVED****ARTICLE 31. RESERVED****ARTICLE 32. RESERVED****ARTICLE 33. RESERVED****ARTICLE 34. RESERVED****ARTICLE 35. REPEALED**

Former Article 35 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 36. REPEALED

Former Article 36 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 37. REPEALED

Former Article 37 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 38. REPEALED

Former Article 38 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 39. REPEALED

Former Article 39 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 40. REPEALED

Former Article 40 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 41. REPEALED

Former Article 41 consisting of Sections R6-3-4101 through R6-3-4106 repealed effective July 9, 1980 (Supp. 80-4).

ARTICLE 42. RESERVED**ARTICLE 43. RESERVED****ARTICLE 44. RESERVED****ARTICLE 45. RESERVED****ARTICLE 46. RESERVED****ARTICLE 47. RESERVED****ARTICLE 48. RESERVED****ARTICLE 49. RESERVED****ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY**

Section

R6-3-5001. Reserved

R6-3-5002. Reserved

R6-3-5003. Reserved

R6-3-5004. Reserved

R6-3-5005. General Provisions

R6-3-5006. Reserved

thru

R6-3-5039. Reserved

R6-3-5040. Attendance at School or Training Course

R6-3-5041. Reserved

thru

R6-3-5049. Reserved

R6-3-5050. Repealed

R6-3-5051. Reserved
thru

R6-3-50134. Reserved

R6-3-50135. Quit or Discharge

R6-3-50136. Reserved

R6-3-50137. Reserved

R6-3-50138. Disciplinary action (V L 138)

R6-3-50139. Reserved

thru

R6-3-50149. Reserved

R6-3-50150. Distance to Work

R6-3-50151. Reserved

R6-3-50152. Reserved

R6-3-50153. Reserved

R6-3-50154. Reserved

R6-3-50155. Domestic circumstances

R6-3-50156. Reserved

thru

R6-3-50189. Reserved

R6-3-50190. Evidence (V L 190)

R6-3-50191. Reserved

thru

R6-3-50209. Reserved

R6-3-50210. Good cause (V L 210)

R6-3-50211. Reserved

thru

R6-3-50234. Reserved

R6-3-50235. Health or physical condition (V L 235)

R6-3-50236. Reserved

thru

R6-3-50304. Reserved

R6-3-50305. Repealed

R6-3-50306. Reserved

thru

R6-3-50314. Reserved

R6-3-50315. New work (V L 315)

R6-3-50316. Reserved

thru

R6-3-50344. Reserved

R6-3-50345. Retirement

R6-3-50346. Reserved

thru

R6-3-50359. Reserved

R6-3-50360. Personal affairs (V L 360)

R6-3-50361. Reserved

R6-3-50362. Reserved

R6-3-50363. Reserved

R6-3-50364. Reserved

R6-3-50365. Prospect of other work (V L 365)

R6-3-50366. Reserved

thru

R6-3-50379. Reserved

R6-3-50380. Repealed

R6-3-50381. Reserved

R6-3-50382. Reserved

R6-3-50383. Reserved

R6-3-50384. Reserved

R6-3-50385. Repealed

R6-3-50386. Reserved

thru

R6-3-50439. Reserved

R6-3-50440. Repealed

R6-3-50441. Reserved

thru

R6-3-50449. Reserved

R6-3-50450. Time (V L 450)

R6-3-50451.	Reserved thru	R6-3-51269.	Reserved
R6-3-50474.	Reserved	R6-3-51270.	Intoxication and use of intoxicants (Misconduct 270)
R6-3-50475.	Union relations (V L 475)	R6-3-51271.	Reserved thru
R6-3-50476.	Reserved thru	R6-3-51299.	Reserved
R6-3-50494.	Reserved	R6-3-51300.	Manner of performing work (Misconduct 300)
R6-3-50495.	Repealed	R6-3-51301.	Reserved thru
R6-3-50496.	Reserved	R6-3-51309.	Reserved
R6-3-50497.	Reserved	R6-3-51310.	Neglect of duty (Misconduct 310)
R6-3-50498.	Reserved	R6-3-51311.	Reserved thru
R6-3-50499.	Reserved	R6-3-51344.	Reserved
R6-3-50500.	Wages (V L 500)	R6-3-51345.	Retirement
R6-3-50501.	Reserved	R6-3-51346.	Reserved thru
R6-3-50502.	Reserved	R6-3-51384.	Reserved
R6-3-50503.	Reserved	R6-3-51385.	Relation of offense to discharge (Misconduct 385)
R6-3-50504.	Reserved	R6-3-51386.	Reserved
R6-3-50505.	Repealed	R6-3-51387.	Reserved
R6-3-50506.	Reserved thru	R6-3-51388.	Reserved
R6-3-50514.	Reserved	R6-3-51389.	Reserved
R6-3-50515.	Working conditions (V L 515)	R6-3-51390.	Relations with fellow employees (Misconduct 390)

ARTICLE 51. DISCHARGE BENEFIT POLICY

Section

R6-3-5101.	Reserved
R6-3-5102.	Reserved
R6-3-5103.	Reserved
R6-3-5104.	Reserved
R6-3-5105.	General (Misconduct 5)
R6-3-5106.	Reserved thru
R6-3-5114.	Reserved
R6-3-5115.	Absence (Misconduct 15)
R6-3-5116.	Reserved thru
R6-3-5144.	Reserved
R6-3-5145.	Attitude toward employer (Misconduct 45)
R6-3-5146.	Reserved thru
R6-3-5184.	Reserved
R6-3-5185.	Connected with work (Misconduct 85)
R6-3-5186.	Reserved thru
R6-3-51134.	Reserved
R6-3-51135.	Repealed
R6-3-51136.	Reserved
R6-3-51137.	Reserved
R6-3-51138.	Reserved
R6-3-51139.	Reserved
R6-3-51140.	Misappropriation of Funds; Falsification of Employment Records
R6-3-51141.	Reserved thru
R6-3-51189.	Reserved
R6-3-51190.	Evidence (Misconduct 190)
R6-3-51191.	Reserved thru
R6-3-51234.	Reserved
R6-3-51235.	Health or physical condition (Misconduct 235)
R6-3-51236.	Reserved thru
R6-3-51254.	Reserved
R6-3-51255.	Insubordination (Misconduct 2555)
R6-3-51256.	Reserved thru

R6-3-51434.	Reserved
R6-3-51435.	Tardiness (Misconduct 435)
R6-3-51436.	Reserved thru
R6-3-51474.	Reserved
R6-3-51475.	Union relations (Misconduct 475)
R6-3-51476.	Reserved thru
R6-3-51484.	Reserved
R6-3-51485.	Violation of company rule (Misconduct 485)
R6-3-51486.	Reserved
R6-3-51487.	Reserved
R6-3-51488.	Reserved
R6-3-51489.	Reserved
R6-3-51490.	Violation of law (Misconduct 490)

ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY

Section

R6-3-5201.	Reserved
R6-3-5202.	Reserved
R6-3-5203.	Reserved
R6-3-5204.	Reserved
R6-3-5205.	General (Able and Available 5)
R6-3-5206.	Reserved thru
R6-3-5239.	Reserved
R6-3-5240.	Attendance at School or Training Course
R6-3-5241.	Reserved
R6-3-5242.	Reserved
R6-3-5243.	Reserved
R6-3-5244.	Reserved
R6-3-5245.	Disloyalty (Able and Available 45)
R6-3-5246.	Reserved thru
R6-3-5269.	Reserved
R6-3-5270.	Citizenship or residence requirements (Able and Available 70)
R6-3-5271.	Reserved thru
R6-3-5289.	Reserved

Department of Economic Security - Unemployment Insurance

R6-3-5290.	Conscientious objection (Able and Available 90)	R6-3-52373.	Reserved
R6-3-5291.	Reserved	R6-3-52374.	Reserved
	thru	R6-3-52375.	Receipt of other payments (Able and Available 375)
R6-3-52104.	Reserved	R6-3-52376.	Reserved
R6-3-52105.	Contract obligation (Able and Available 105)		thru
R6-3-52106.	Reserved	R6-3-52414.	Reserved
	thru	R6-3-52415.	Self-employment or other work (Able and Available 415)
R6-3-52149.	Reserved	R6-3-52416.	Reserved
R6-3-52150.	Distance to work (Able and Available 150)		thru
R6-3-52151.	Reserved	R6-3-52449.	Reserved
R6-3-52152.	Reserved	R6-3-52450.	Time (Able and Available 450)
R6-3-52153.	Reserved	R6-3-52451.	Reserved
R6-3-52154.	Reserved		thru
R6-3-52155.	Domestic circumstances (Able and Available 155)	R6-3-52474.	Reserved
R6-3-52156.	Reserved	R6-3-52475.	Union relations (Able and Available 475)
R6-3-52157.	Reserved	R6-3-52476.	Reserved
R6-3-52158.	Reserved		thru
R6-3-52159.	Reserved	R6-3-52499.	Reserved
R6-3-52160.	Effort to secure employment or willingness to work (Able and Available 160)	R6-3-52500.	Wages (Able and Available 500)
R6-3-52161.	Reserved	R6-3-52501.	Reserved
R6-3-52162.	Reserved		thru
R6-3-52163.	Reserved	R6-3-52509.	Reserved
R6-3-52164.	Reserved	R6-3-52510.	Work, nature of (Able and Available 510)
R6-3-52165.	Employer requirements (Able and Available 165)		
R6-3-52166.	Reserved	ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY	
	thru	Section	
R6-3-52179.	Reserved	R6-3-5301.	Reserved
R6-3-52180.	Equipment (Able and Available 180)	R6-3-5302.	Reserved
R6-3-52181.	Reserved	R6-3-5303.	Reserved
	thru	R6-3-5304.	Reserved
R6-3-52189.	Reserved	R6-3-5305.	General; Definitions
R6-3-52190.	Evidence (Able and Available 190)	R6-3-5306.	Reserved
R6-3-52191.	Reserved		thru
	thru	R6-3-5339.	Reserved
R6-3-52234.	Reserved	R6-3-5340.	Repealed
R6-3-52235.	Health or physical condition (Able and Available 235)	R6-3-5341.	Reserved
	thru		thru
R6-3-52236.	Reserved	R6-3-53149.	Reserved
	thru	R6-3-53150.	Distance to work (Refusal of Work 150)
R6-3-52249.	Reserved	R6-3-53151.	Reserved
R6-3-52250.	Incarceration or other legal detention (Able and Available 250)		thru
R6-3-52251.	Reserved	R6-3-53169.	Reserved
	thru	R6-3-53170.	Employment office or other agency referral (Refusal of Work 170)
R6-3-52284.	Reserved	R6-3-53171.	Reserved
R6-3-52285.	Leave of absence or vacation (Able and Available 285)		thru
R6-3-52286.	Reserved	R6-3-53194.	Reserved
	thru	R6-3-53195.	Experience or training (Refusal of Work 195)
R6-3-52294.	Reserved	R6-3-53196.	Reserved
R6-3-52295.	Length of unemployment (Able and Available 295)		thru
R6-3-52296.	Reserved	R6-3-53234.	Reserved
	thru	R6-3-53235.	Health or physical condition (Refusal of Work 235)
R6-3-52304.	Reserved	R6-3-53236.	Reserved
R6-3-52305.	Military service (Able and Available 305)		thru
R6-3-52306.	Reserved	R6-3-53264.	Reserved
	thru	R6-3-53265.	Interview and acceptance (Refusal of Work 265)
R6-3-52319.	Reserved	R6-3-53266.	Reserved
R6-3-52320.	Notification of address (Able and Available 320)		thru
R6-3-52321.	Reserved	R6-3-53294.	Reserved
	thru	R6-3-53295.	Length of unemployment
R6-3-52369.	Reserved	R6-3-53296.	Reserved
R6-3-52370.	Public service (Able and Available 370)		thru
R6-3-52371.	Reserved	R6-3-53329.	Reserved
R6-3-52372.	Reserved	R6-3-53330.	Offer to work (Refusal of Work 330)
		R6-3-53331.	Reserved

R6-3-53332. Reserved
 R6-3-53333. Reserved
 R6-3-53334. Reserved
 R6-3-53335. Offered work previously left or refused (Refusal of Work 335)
 R6-3-53336. Reserved thru
 R6-3-53364. Reserved
 R6-3-53365. Prospect of other work (Refusal of Work 365)
 R6-3-53366. Reserved thru
 R6-3-53379. Reserved
 R6-3-53380. Polygraph examination requirement
 R6-3-53381. Reserved thru
 R6-3-53449. Reserved
 R6-3-53450. Time -- hours (Refusal of Work 450 - 450.15)
 R6-3-53451. Reserved thru
 R6-3-53474. Reserved
 R6-3-53475. Union relations (Refusal of Work 475)
 R6-3-53476. Reserved
 R6-3-53477. Reserved
 R6-3-53478. Reserved
 R6-3-53479. Reserved
 R6-3-53480. Vacant due to labor dispute (Refusal of Work 480)
 R6-3-53481. Reserved thru
 R6-3-53499. Reserved
 R6-3-53500. Wages (Refusal of Work 500)
 R6-3-53501. Reserved thru
 R6-3-53509. Reserved
 R6-3-53510. Work, nature of (Refusal of Work 510)
 R6-3-53511. Reserved
 R6-3-53512. Reserved
 R6-3-53513. Reserved
 R6-3-53514. Reserved
 R6-3-53515. Working conditions (Refusal of Work 515)

ARTICLE 54. MISCELLANEOUS BENEFIT POLICY

Section

R6-3-5401. Reserved thru
 R6-3-5439. Reserved
 R6-3-5440. Repealed
 R6-3-5441. Reserved thru
 R6-3-5459. Reserved
 R6-3-5460. Benefit computation factors (Miscellaneous 60)
 R6-3-5461. Reserved thru
 R6-3-5469. Reserved
 R6-3-5470. Repealed
 R6-3-5471. Reserved
 R6-3-5472. Reserved
 R6-3-5473. Reserved
 R6-3-5474. Reserved
 R6-3-5475. Claims and Registration
 R6-3-5476. Reserved thru
 R6-3-5494. Reserved
 R6-3-5495. Disqualification; Definition of Last Employment
 R6-3-5496. Reserved
 R6-3-5497. Reserved
 R6-3-5498. Reserved

R6-3-5499. Reserved
 R6-3-54100. Extended benefits
 R6-3-54101. Reserved thru
 R6-3-54339. Reserved
 R6-3-54340. Overpayments (Miscellaneous 340)
 R6-3-54341. Reserved thru
 R6-3-54406. Reserved
 R6-3-54407. Repealed

ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

Section

R6-3-5501. Reserved thru
 R6-3-55414. Reserved
 R6-3-55415. Self-employment or other work (Total and Partial Unemployment 415)
 R6-3-55416. Reserved thru
 R6-3-55459. Reserved
 R6-3-55460. Type of compensation (Total and Partial Unemployment 460)

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

Section

R6-3-5601. Definitions and Explanation of Terms
 R6-3-5602. Labor Dispute Notice
 R6-3-5603. Eligibility During a Labor Dispute
 R6-3-5604. Termination of the Labor Dispute Disqualification
 R6-3-5605. Repealed
 R6-3-5606. Reserved thru
 R6-3-5634. Reserved
 R6-3-5635. Repealed
 R6-3-5636. Reserved thru
 R6-3-56124. Reserved
 R6-3-56125. Repealed
 R6-3-56126. Reserved
 R6-3-56127. Reserved
 R6-3-56128. Reserved
 R6-3-56129. Reserved
 R6-3-56130. Repealed
 R6-3-56131. Reserved thru
 R6-3-56174. Reserved
 R6-3-56175. Repealed
 R6-3-56176. Reserved thru
 R6-3-56204. Reserved
 R6-3-56205. Repealed
 R6-3-56206. Reserved thru
 R6-3-56219. Reserved
 R6-3-56220. Repealed
 R6-3-56221. Reserved thru
 R6-3-56406. Reserved
 R6-3-56407. Repealed
 R6-3-56408. Reserved thru
 R6-3-56444. Reserved
 R6-3-56445. Repealed

Department of Economic Security - Unemployment Insurance

R6-3-56446. Reserved
thru
R6-3-56464. Reserved
R6-3-56465. Repealed
R6-3-56466. Reserved
R6-3-56467. Reserved
R6-3-56468. Reserved
R6-3-56469. Reserved
R6-3-56470. Repealed

ARTICLE 57. RESERVED**ARTICLE 58. RESERVED****ARTICLE 59. RESERVED****ARTICLE 60. REPEALED**

Former Article 60, consisting of Sections 6-3-6001 through R6-3-6006, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 61. REPEALED

Former Article 61, consisting of Sections R6-3-6101 through R6-3-6107, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 62. REPEALED

Former Article 62, consisting of Sections R6-3-6201 through R6-3-6205, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 63. REPEALED

Former Article 63, consisting of Sections R6-3-6301 through R6-3-6304, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 64. REPEALED

Former Article 64, consisting of Section R6-3-6401, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 65. REPEALED

Former Article 65, consisting of Section R6-3-6501, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 66. REPEALED

Former Article 66, consisting of Sections R6-3-6601 through R6-3-6606, repealed effective February 1, 1995 (Supp. 95-1).

All forms referred to in this Chapter can be obtained from the Department of Economic Security.

ARTICLE 1. RECODIFIED**R6-3-101. Repealed****Historical Note**

Former Section R6-3-101 repealed, new Section R6-3-101 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 3, 1983 (Supp. 83-6).

R6-3-102. Repealed**Historical Note**

Former Section R6-3-102 repealed, new Section R6-3-102 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 3, 1983 (Supp. 83-6).

R6-3-103. Recodified**Historical Note**

Former Section R6-3-103 repealed, new Section R6-3-103 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-103 recodified to A.A.C. R6-1-501 effective February 13, 1996 (Supp. 96-1).

R6-3-104. Repealed**Historical Note**

Former Section R6-3-104 repealed, new Section R6-3-104 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 3, 1983 (Supp. 83-6).

ARTICLE 2. RECODIFIED**R6-3-201. Recodified****Historical Note**

Former Rule 3-200; Former Section R6-3-201 repealed, new Section R6-3-201 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-201 recodified to A.A.C. R6-13-201 effective February 13, 1996 (Supp. 96-1).

R6-3-202. Recodified**Historical Note**

Former Rule 3-201; Former Section R6-3-202 repealed, new Section R6-3-202 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-202 recodified to A.A.C. R6-13-202 effective February 13, 1996 (Supp. 96-1).

R6-3-203. Recodified**Historical Note**

Former Rule 3-202; Former Section R6-3-203 repealed, new Section R6-3-203 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-203 recodified to A.A.C. R6-13-203 effective February 13, 1996 (Supp. 96-1).

R6-3-204. Recodified**Historical Note**

Former Rule 3-203; Former Section R6-3-204 repealed, new Section R6-3-204 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-204 recodified to A.A.C. R6-13-204 effective February 13, 1996 (Supp. 96-1).

R6-3-205. Recodified**Historical Note**

Former Rule R3-204; Former Section R6-3-205 repealed, new Section R6-3-205 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-205 recodified to A.A.C. R6-13-205 effective February 13, 1996 (Supp. 96-1).

R6-3-206. Recodified**Historical Note**

Former Rule 3-205; Former Section R6-3-206 repealed, new Section R6-3-206 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-206 recodified to A.A.C. R6-13-206 effective February 13, 1996 (Supp. 96-1).

R6-3-207. Recodified**Historical Note**

Former Rule 3-206; Former Section R6-3-207 repealed, new Section R6-3-207 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Amended as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former Emergency Adoption now adopted effective April 23, 1980 (Supp. 80-2). R6-3-207 recodified to A.A.C. R6-13-207 effective February 13, 1996 (Supp. 96-1).

R6-3-208. Repealed**Historical Note**

Former Rule 3-207, 3-207.2; Repealed effective March 26, 1976 (Supp. 76-2).

R6-3-209. Recodified**Historical Note**

Former Rule 3-208; Former Section R6-3-209 repealed, new Section R6-3-209 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-209 recodified to A.A.C. R6-13-209 effective February 13, 1996 (Supp. 96-1).

R6-3-210. Repealed**Historical Note**

Former Rule 3-209; Repealed effective March 26, 1976 (Supp. 76-2).

R6-3-211. Recodified**Historical Note**

Former Rule 3-210; Former Section R6-3-211 repealed, new Section R6-3-211 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-211 recodified to A.A.C. R6-13-211 effective February 13, 1996 (Supp. 96-1).

R6-3-212. Recodified**Historical Note**

Former Rule 3-211; Former Section R6-3-212 repealed, new Section R6-3-212 adopted effective March 26, 1976 (Supp. 76-2). R6-3-212 recodified to A.A.C. R6-13-212 effective February 13, 1996 (Supp. 96-1).

R6-3-213. Repealed

Historical Note

Former Rule 3-212; Repealed effective March 26, 1976 (Supp. 76-2).

R6-3-214. Recodified**Historical Note**

Former Rule 3-213; Former Section R6-3-214 repealed, new Section R6-3-214 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-214 recodified to A.A.C. R6-13-214 effective February 13, 1996 (Supp. 96-1).

R6-3-215. Recodified**Historical Note**

Former Rule 3-214; Former Section R6-3-215 repealed, new Section R6-3-215 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-215 recodified to A.A.C. R6-13-215 effective February 13, 1996 (Supp. 96-1).

R6-3-216. Recodified**Historical Note**

Former Rule 3-215; Former Section R6-3-216 repealed, new Section R6-3-216 adopted effective March 26, 1976 (Supp. 76-2). R6-3-216 recodified to A.A.C. R6-13-216 effective February 13, 1996 (Supp. 96-1).

ARTICLE 3. RECODIFIED**R6-3-301. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-301 recodified to A.A.C. R6-13-301 effective February 13, 1996 (Supp. 96-1).

R6-3-302. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-302 recodified to A.A.C. R6-13-302 effective February 13, 1996 (Supp. 96-1).

R6-3-303. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-304 renumbered and amended as Section R6-3-303 effective October 13, 1977 (Supp. 77-5). R6-3-303 recodified to A.A.C. R6-13-303 effective February 13, 1996 (Supp. 96-1).

R6-3-304. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-303 renumbered and amended as Section R6-3-304 effective October 13, 1977 (Supp. 77-5). R6-3-304 recodified to A.A.C. R6-13-304 effective February 13, 1996 (Supp. 96-1).

R6-3-305. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-305 recodified to A.A.C. R6-13-305 effective February 13, 1996 (Supp. 96-1).

R6-3-306. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-306 recodified to A.A.C. R6-13-306 effective February 13, 1996 (Supp. 96-1).

R6-3-307. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977; Amended as an emergency effective March 21, 1977 (Supp. 77-2). Amended effective June 17, 1977 (Supp. 77-3). Amended effective October 13, 1977 (Supp. 77-5). R6-3-307 recodified to A.A.C. R6-13-307 effective February 13, 1996 (Supp. 96-1).

R6-3-308. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective October 13, 1977 (Supp. 77-5).

R6-3-309. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-309 recodified to A.A.C. R6-13-309 effective February 13, 1996 (Supp. 96-1).

R6-3-310. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-310 recodified to A.A.C. R6-13-310 effective February 13, 1996 (Supp. 96-1).

R6-3-311. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-311 recodified to A.A.C. R6-13-311 effective February 13, 1996 (Supp. 96-1).

R6-3-312. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective October 13, 1977 (Supp. 77-5).

R6-3-313. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-313 recodified to A.A.C. R6-13-313 effective February 13, 1996 (Supp. 96-1).

R6-3-314. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-314 repealed, new Section R6-3-314 adopted effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Amended as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former emergency adoption now adopted and amended effective April 9, 1980 (Supp. 80-2). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-314 recodified to A.A.C. R6-13-314 effective February 13, 1996 (Supp. 96-1).

R6-3-314.01. Recodified**Historical Note**

Adopted effective November 17, 1993 (Supp. 93-4). R6-3-314.01 recodified to A.A.C. R6-13-314.01 effective February 13, 1996 (Supp. 96-1).

R6-3-315. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-315 recodified to A.A.C. R6-13-315 effective February 13, 1996 (Supp. 96-1).

R6-3-316. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-316 repealed, new Section R6-3-316 adopted effective October 13, 1977 (Supp. 77-5). R6-3-316 recodified to A.A.C. R6-13-316 effective February 13, 1996 (Supp. 96-1).

R6-3-317. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-317 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-318. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-318 repealed, new Section R6-3-318 adopted effective October 13, 1977 (Supp. 77-5). Former Section R6-3-318 repealed, new Section R6-3-318 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Emergency expired, Section R6-3-318 in effect prior to emergency repeal placed back into effect January 2, 1980. Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-318 recodified to A.A.C. R6-13-318 effective February 13, 1996 (Supp. 96-1).

R6-3-319. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-319 repealed, new Section R6-3-319 adopted effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Former Section R6-3-319 repealed, new Section R6-3-319

adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former emergency adoption now adopted and amended effective April 9, 1980 (Supp. 80-2). R6-3-319 recodified to A.A.C. R6-13-319 effective February 13, 1996 (Supp. 96-1).

R6-3-320. Recodified**Historical Note**

Former Section R6-3-324 renumbered and amended as Section R6-3-320 effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-320 recodified to A.A.C. R6-13-320 effective February 13, 1996 (Supp. 96-1).

R6-3-321. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-325 renumbered and amended as Section R6-3-321 effective October 13, 1977 (Supp. 77-5). R6-3-321 recodified to A.A.C. R6-13-321 effective February 13, 1996 (Supp. 96-1).

R6-3-322. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-322 repealed, new Section R6-3-322 adopted effective March 14, 1977 (Supp. 77-5). Former Section R6-3-322 repealed effective October 13, 1977 (Supp. 77-5). New Section R6-3-322 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former Emergency Adoption now adopted and amended effective April 17, 1980 (Supp. 80-2). R6-3-322 recodified to A.A.C. R6-13-322 effective February 13, 1996 (Supp. 96-1).

R6-3-323. Reserved**R6-3-324. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-324 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-325. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-325 repealed effective October 13, 1977 (Supp. 77-5).

ARTICLE 4. REPEALED**R6-3-401. Repealed****Historical Note**

Former Rule 3-400; Former Section R6-3-401 repealed, new Section R6-3-401 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-402. Repealed**Historical Note**

Former Rule 3-401; Former Section R6-3-402 repealed, new Section R6-3-402 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-402 repealed, new

Section R6-3-402 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-403. Repealed

Historical Note

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-404. Repealed

Historical Note

Former Rule 3-402; Former Section R6-3-404 repealed, new Section R6-3-404 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-4). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-405. Repealed

Historical Note

Former Rule 3-403; Former Section R6-3-405 repealed, new Section R6-3-405 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-406. Repealed

Historical Note

Former Rule 3-404; Former Section R6-3-406 repealed, new Section R6-3-406 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-407. Repealed

Historical Note

Former Rule 3-405; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-407 repealed, new Section R6-3-407 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-408. Repealed

Historical Note

Former Rule 3-406; Former Section R6-3-408 repealed, new Section R6-3-408 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-408 repealed, new Section R6-3-408 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-409. Repealed

Historical Note

Former Rule 3-407; Former Section R6-3-409 repealed, new Section R6-3-409 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 21, 1977 (Supp. 77-2). Correction, amended effective March 21, 1977 (Supp. 77-2) should read amended as an emergency effective March 21, 1977 (Supp. 77-2); Amended effective June 17, 1977 (Supp. 77-3). Former Section R6-3-409 repealed, new Section R6-3-409 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-410. Repealed

Historical Note

Former Rule 3-408; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-410 repealed, new Section R6-3-410 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective June 15, 1978 (Supp. 78-3).

R6-3-411. Repealed

Historical Note

Former Rule 3-409; Former Section R6-3-411 repealed effective March 26, 1976 (Supp. 76-2). Former Section R6-3-322 renumbered and amended as Section R6-3-411 effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-412. Repealed

Historical Note

Former Rule 3-410; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-412 repealed, new Section R6-3-412 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-412 repealed, new Section R6-3-412 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-413. Repealed

Historical Note

Former Rule 3-411; Former Section R6-3-413 repealed, new Section R6-3-413 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-413 repealed, new Section R6-3-413 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-414. Repealed

Historical Note

Former Rule 3-412; Amended effective October 23, 1975, AP Exhibit IV-B repealed effective October 23, 1975 (Supp. 75-1). Former Section R6-3-414 repealed, new Section R6-3-414 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-414 repealed, new Section R6-3-414 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-415. Repealed

Historical Note

Former Rule 3-420; Former Section R6-3-415 repealed, new Section R6-3-415 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-415 repealed, new Section R6-3-415 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-416. Repealed

Historical Note

Former Rule 3-421; Former Section R6-3-416 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-417. Repealed

Historical Note

Former Rule 3-422; Former Section R6-3-417 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-418. Repealed**Historical Note**

Former Rule 3-423; Former Section R6-3-418 repealed, new Section R6-3-418 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-419. Repealed**Historical Note**

Former Rule 3-424; Former Section R6-3-419 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-420. Repealed**Historical Note**

Former Rule 3-425; Former Section R6-3-420 repealed, new Section R6-3-420 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-421. Repealed**Historical Note**

Former Rule 3-426; Former Section R6-3-421 repealed, new Section R6-3-421 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-422. Repealed**Historical Note**

Former Rule 3-427; Former Section R6-3-422 repealed, new Section R6-3-422 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-423. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-424. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-425. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-426. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-427. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-428. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-429. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-430. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-430 repealed, new Section R6-3-430 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-431. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-432. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-433. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-434. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-434 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-435. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-435 repealed effective October 13, 1977 (Supp. 77-5).

ARTICLE 5. REPEALED**R6-3-501. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-502. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-503. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Amended effective October 13, 1977 (Supp. 77-5).
Amended as an emergency effective September 1, 1983,
pursuant to A.R.S. § 41-1003, valid for only 90 days
(Supp. 83-5). Emergency expired. Amended effective
May 2, 1984 (Supp. 84-3). Repealed effective November
9, 1995 (Supp. 95-4).

R6-3-504. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-505. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-506. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-507. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-508. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-509. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-510. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-511. Reserved**R6-3-512. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-513. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-514. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-515. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former
Section R6-3-515 repealed, new Section R6-3-515
adopted as an emergency effective October 3, 1979, pur-
suant to A.R.S. § 41-1003, valid for only 90 days (Supp.
79-5). Former Emergency Adoption now adopted and
amended effective April 17, 1980 (Supp. 80-2). Repealed
effective November 9, 1995 (Supp. 95-4).

R6-3-516. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-517. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

ARTICLE 6. RECODIFIED**R6-3-601. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Section
repealed, new Section adopted effective October 2, 1986
(Supp. 86-2). Amended effective May 2, 1990 (Supp. 90-
2). R6-3-601 recodified to A.A.C. R6-13-601 effective
February 13, 1996 (Supp. 96-1).

R6-3-602. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Section
repealed, new Section adopted effective October 2, 1986
(Supp. 86-2). Amended effective May 2, 1990 (Supp. 90-
2). R6-3-602 recodified to A.A.C. R6-13-602 effective
February 13, 1996 (Supp. 96-1).

R6-3-603. Recodified**Historical Note**

Former Section R6-3-603 adopted effective March 26,
1976 (Supp. 76-2). Amended effective October 13, 1977
(Supp. 77-5). Amended effective June 15, 1978 (Supp.
78-3). Section repealed, new Section adopted effective
October 2, 1986 (Supp. 86-2). Section R6-3-603 renum-
bered to R6-3-604, new Section R6-3-603 adopted effec-
tive May 2, 1990 (Supp. 90-2). R6-3-603 recodified to
A.A.C. R6-13-603 effective February 13, 1996 (Supp.
96-1).

R6-3-604. Recodified**Historical Note**

Former Section R6-3-604 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective October 2, 1986 (Supp. 86-5). New Section R6-3-604 renumbered from R6-3-603 effective May 2, 1990 (Supp. 90-2). R6-3-604 recodified to A.A.C. R6-13-604 effective February 13, 1996 (Supp. 96-1).

R6-3-605. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-606. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-607. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Amended effective October 13, 1977 (Supp. 77-5).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-608. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Amended effective October 13, 1977 (Supp. 77-5).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-609. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 13, 1977 (Supp. 77-5).

R6-3-610. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 13, 1977 (Supp. 77-5).

R6-3-611. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-612. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-613. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-614. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

R6-3-615. Repealed**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective October 2, 1986 (Supp. 86-5).

ARTICLE 7. RECODIFIED**R6-3-701. Recodified****Historical Note**

Former Rule 3-700; Former Section R6-3-701 repealed, new Section R6-3-701 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-701 repealed, new Section R6-3-701 adopted effective January 10, 1985 (Supp. 85-1). Amended effective July 30, 1992 (Supp. 92-3). R6-3-701 recodified to A.A.C. R6-13-701 effective February 13, 1996 (Supp. 96-1).

ARTICLE 8. RECODIFIED**R6-3-801. Recodified****Historical Note**

Former Rule 3-800; Former Section R6-3-801 repealed, new Section R6-3-801 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-801 repealed, new Section R6-3-801 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-801 recodified to A.A.C. R6-13-801 effective February 13, 1996 (Supp. 96-1).

R6-3-802. Recodified**Historical Note**

Former Rule 3-801; Former Section R6-3-802 repealed, new Section R6-3-802 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-802 repealed, new Section R6-3-802 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-802 recodified to A.A.C. R6-13-802 effective February 13, 1996 (Supp. 96-1).

R6-3-803. Recodified**Historical Note**

Former Rule 3-802; Former Section R6-3-803 repealed, new Section R6-3-803 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-803 repealed, new Section R6-3-803 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-803 recodified to A.A.C. R6-13-803 effective February 13, 1996 (Supp. 96-1).

R6-3-804. Recodified**Historical Note**

Former Rule 3-803; Former Section R6-3-804 repealed, new Section R6-3-804 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-804 repealed, new Section R6-3-804 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-804 recodified to A.A.C. R6-13-804 effective February 13, 1996 (Supp. 96-1).

R6-3-805. Recodified**Historical Note**

Former Rule 3-804; Former Section R6-3-805 repealed, new Section R6-3-805 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-805 repealed, new Section R6-3-805 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-805 recodified to A.A.C. R6-13-805 effective February 13, 1996 (Supp. 96-1).

R6-3-806. Recodified**Historical Note**

Former Rule 3-805; Former Section R6-3-806 repealed, new Section R6-3-806 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-806 repealed, new Section R6-3-806 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-806 recodified to A.A.C. R6-13-806 effective February 13, 1996 (Supp. 96-1).

R6-3-807. Recodified**Historical Note**

Former Rule 3-806; Former Section R6-3-807 repealed, new Section R6-3-807 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective June 15, 1978 (Supp. 78-3). New Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-807 recodified to A.A.C. R6-13-807 effective February 13, 1996 (Supp. 96-1).

R6-3-808. Recodified**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective June 15, 1978 (Supp. 78-3). New Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-808 recodified to A.A.C. R6-13-808 effective February 13, 1996 (Supp. 96-1).

R6-3-809. Recodified**Historical Note**

Adopted effective October 27, 1993 (Supp. 93-4). R6-3-809 recodified to A.A.C. R6-13-809 effective February 13, 1996 (Supp. 96-1).

ARTICLE 9. RECODIFIED**R6-3-901. Recodified****Historical Note**

Former Rule 3-900; Former Section R6-3-901 repealed, new Section R6-3-901 adopted effective March 26, 1976 (Supp. 76-2). R6-3-901 recodified to A.A.C. R6-13-901 effective February 13, 1996 (Supp. 96-1).

R6-3-902. Recodified**Historical Note**

Former Rule 3-901; Former Section R6-3-902 repealed, new Section R6-3-902 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-902 recodified to A.A.C. R6-13-902 effective February 13, 1996 (Supp. 96-1).

R6-3-903. Recodified**Historical Note**

Former Rule 3-902; Former Section R6-3-903 repealed, new Section R6-3-903 adopted effective March 26, 1976 (Supp. 76-2). R6-3-903 recodified to A.A.C. R6-13-903 effective February 13, 1996 (Supp. 96-1).

R6-3-904. Recodified**Historical Note**

Former Rule 3-903; Former Section R6-3-904 repealed, new Section R6-3-904 adopted effective March 26, 1976 (Supp. 76-2). R6-3-904 recodified to A.A.C. R6-13-904 effective February 13, 1996 (Supp. 96-1).

R6-3-905. Recodified**Historical Note**

Former Rule 3-904; Former Section R6-3-905 repealed, new Section R6-3-905 adopted effective March 26, 1976 (Supp. 76-2). R6-3-905 recodified to A.A.C. R6-13-905 effective February 13, 1996 (Supp. 96-1).

R6-3-906. Recodified**Historical Note**

Former Rule 3-905; Amended effective September 24, 1975 (Supp. 76-1). Former Section R6-3-906 repealed, new Section R6-3-906 adopted effective March 26, 1976 (Supp. 76-2). R6-3-906 recodified to A.A.C. R6-13-906 effective February 13, 1996 (Supp. 96-1).

R6-3-907. Recodified**Historical Note**

Former Rule 3-906; Former Section R6-3-907 repealed, new Section R6-3-907 adopted effective March 26, 1976 (Supp. 76-2). R6-3-907 recodified to A.A.C. R6-13-907 effective February 13, 1996 (Supp. 96-1).

R6-3-908. Recodified**Historical Note**

Former Rule 3-907; Former Section R6-3-908 repealed, new Section R6-3-908 adopted effective March 26, 1976 (Supp. 76-2). R6-3-908 recodified to A.A.C. R6-13-908 effective February 13, 1996 (Supp. 96-1).

R6-3-909. Recodified**Historical Note**

Former Rule 3-908; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-909 repealed, new Section R6-3-909 adopted effective March 26, 1976 (Supp. 76-2). R6-3-909 recodified to A.A.C. R6-13-909 effective February 13, 1996 (Supp. 96-1).

R6-3-910. Recodified**Historical Note**

Former Rule 3-909; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-910 repealed, new Section R6-3-910 adopted effective March 26, 1976 (Supp. 76-2). R6-3-910 recodified to A.A.C. R6-13-910 effective February 13, 1996 (Supp. 96-1).

R6-3-911. Recodified**Historical Note**

Former Rule 3-910; Former Section R6-3-911 repealed, new Section R6-3-911 adopted effective March 26, 1976

(Supp. 76-2). R6-3-911 recodified to A.A.C. R6-13-911 effective February 13, 1996 (Supp. 96-1).

R6-3-912. Recodified

Historical Note

Former Rule 3-911; Former Section R6-3-912 repealed, new Section R6-3-912 adopted effective March 26, 1976 (Supp. 76-2). R6-3-912 recodified to A.A.C. R6-13-912 effective February 13, 1996 (Supp. 96-1).

R6-3-913. Recodified

Historical Note

Former Rule 3-912; Former Section R6-3-913 repealed, new Section R6-3-913 adopted effective March 26, 1976 (Supp. 76-2). R6-3-913 recodified to A.A.C. R6-13-913 effective February 13, 1996 (Supp. 96-1).

R6-3-914. Recodified

Historical Note

Former Rule 3-913; Former Section R6-3-914 repealed, new Section R6-3-914 adopted effective March 26, 1976 (Supp. 76-2). R6-3-914 recodified to A.A.C. R6-13-914 effective February 13, 1996 (Supp. 96-1).

R6-3-915. Recodified

Historical Note

Former Rule 3-914; Former Section R6-3-915 repealed, new Section R6-3-915 adopted effective March 26, 1976 (Supp. 76-2). R6-3-915 recodified to A.A.C. R6-13-915 effective February 13, 1996 (Supp. 96-1).

R6-3-916. Recodified

Historical Note

Former Rule 3-920; Former Section R6-3-916 repealed, new Section R6-3-916 adopted effective March 26, 1976 (Supp. 76-2). R6-3-916 recodified to A.A.C. R6-13-9216 effective February 13, 1996 (Supp. 96-1).

R6-3-917. Recodified

Historical Note

Former Rule 3-921; Former Section R6-3-917 repealed, new Section R6-3-917 adopted effective March 26, 1976 (Supp. 76-2). R6-3-917 recodified to A.A.C. R6-13-917 effective February 13, 1996 (Supp. 96-1).

R6-3-918. Recodified

Historical Note

Former Rule 3-922; Former Section R6-3-918 repealed, new Section R6-3-918 adopted effective March 26, 1976 (Supp. 76-2). R6-3-918 recodified to A.A.C. R6-13-918 effective February 13, 1996 (Supp. 96-1).

R6-3-919. Recodified

Historical Note

Former Rule 3-923; Former Section R6-3-919 repealed, new Section R6-3-919 adopted effective March 26, 1976 (Supp. 76-2). R6-3-919 recodified to A.A.C. R6-13-919 effective February 13, 1996 (Supp. 96-1).

R6-3-920. Recodified

Historical Note

Former Rule 3-924; Former Section R6-3-920 repealed, new Section R6-3-920 adopted effective March 26, 1976

(Supp. 76-2). R6-3-920 recodified to A.A.C. R6-13-920 effective February 13, 1996 (Supp. 96-1).

R6-3-921. Recodified

An applicant or recipient who is dissatisfied with a decision on his case has the right to appeal.

Historical Note

Former Rule 3-925; Former Section R6-3-921 repealed, new Section R6-3-921 adopted effective March 26, 1976 (Supp. 76-2). R6-3-921 recodified to A.A.C. R6-13-921 effective February 13, 1996 (Supp. 96-1).

R6-3-922. Recodified

Historical Note

Former Rule 3-926; Former Section R6-3-922 repealed, new Section R6-3-922 adopted effective March 26, 1976 (Supp. 76-2). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-922 recodified to A.A.C. R6-13-922 effective February 13, 1996 (Supp. 96-1).

ARTICLE 10. REPEALED

R6-3-1001. Repealed

Historical Note

Former Rule 3-1100; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1001 repealed, new Section R6-3-1001 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1002. Repealed

Historical Note

Former Rule 3-1101; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1002 repealed, new Section R6-3-1002 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1003. Repealed

Historical Note

Former Rule 3-1102; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1003 repealed, new Section R6-3-1003 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1004. Repealed

Historical Note

Former Rule 3-1103; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1004 repealed, new Section R6-3-1004 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1005. Repealed

Historical Note

Former Rule 3-1104; Former Section R6-3-1005 repealed, new Section R6-3-1005 adopted effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1005 repealed, new Section R6-3-1005 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1006. Repealed

Historical Note

Former Rule 3-1105; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1006 repealed, new Section R6-3-1006 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1007. Repealed**Historical Note**

Former Rule 3-1106; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1007 repealed, new Section R6-3-1007 adopted effective March 26, 1976 (Supp. 76-2).

R6-3-1008. Repealed**Historical Note**

Former Rule 3-1107; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1008 repealed, new Section R6-3-1008 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1009. Repealed**Historical Note**

Former Rule 3-1108; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1009 repealed, new Section R6-3-1009 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1010. Repealed**Historical Note**

Former Rule 3-1109; Former Section R6-3-1010 repealed, new Section R6-3-1010 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1011. Repealed**Historical Note**

Former Rules 3-1110 thru 3-1119; Former Section R6-3-1011 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-1012. Repealed**Historical Note**

Former Rule 3-1120; Former Section R6-3-1012 repealed, new Section R6-3-1012 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1013. Repealed**Historical Note**

Former Rule 3-1121; Not in original publication, correction, R6-3-1013(A)(4), R6-3-1013(B)(1) through (6), R6-3-1013(C), other revisions amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1013 repealed, new Section R6-3-1013 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1014. Repealed**Historical Note**

Former Rule 3-1122; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1014 repealed, new Section R6-3-1014 adopted effective March 26,

1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1015. Repealed**Historical Note**

Former Rule 3-1123; Former Section R6-3-1015 repealed, new Section R6-3-1015 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

ARTICLE 11. REPEALED

Former Article 11 consisting of Sections R6-3-1101 through R6-3-1111 repealed effective March 26, 1976.

ARTICLE 12. RECODIFIED**R6-3-1201. Recodified****Historical Note**

Former Rule 3-1300; Former Section R6-3-1201 repealed, new Section R6-3-1201 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-1201 repealed, new Section R6-3-1201 adopted effective October 13, 1977 (Supp. 77-5). R6-3-1201 recodified to A.A.C. R6-13-1201 effective February 13, 1996 (Supp. 96-1).

R6-3-1202. Recodified**Historical Note**

Former Rule 3-1301; Former Section R6-3-1202 repealed, new Section R6-3-1202 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1202 recodified to A.A.C. R6-13-1202 effective February 13, 1996 (Supp. 96-1).

R6-3-1203. Recodified**Historical Note**

Former Rule 3-1302; Former Section R6-3-1203 repealed, new Section R6-3-1203 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1203 recodified to A.A.C. R6-13-1203 effective February 13, 1996 (Supp. 96-1).

R6-3-1204. Recodified**Historical Note**

Former Rule 3-1303; Former Section R6-3-1204 repealed, new Section R6-3-1204 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1204 recodified to A.A.C. R6-13-1204 effective February 13, 1996 (Supp. 96-1).

R6-3-1205. Repealed**Historical Note**

Former Rule 3-1304; Former Section R6-3-1204 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-1206. Recodified**Historical Note**

Former Rule 3-1305; Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective June

15, 1978 (Supp. 78-3). Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective January 2, 1985 (Supp. 85-1). R6-3-1206 recodified to A.A.C. R6-13-1206 effective February 13, 1996 (Supp. 96-1).

R6-3-1207. Recodified**Historical Note**

Former Rule 3-1306; Former Section R6-3-1207 repealed, new Section R6-3-1207 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1207 recodified to A.A.C. R6-13-1207 effective February 13, 1996 (Supp. 96-1).

R6-3-1208. Recodified**Historical Note**

Former Rule 3-1307; Former Section R6-3-1208 repealed, new Section R6-3-1208 adopted effective March 26, 1976 (Supp. 76-2). Amended effective June 9, 1978 (Supp. 78-3). Former Section R6-3-1208 repealed, new Section R6-3-1208 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former Emergency Adoption now adopted and amended effective April 23, 1980 (Supp. 80-2). Amended effective September 6, 1985 (Supp. 85-5). R6-3-1208 recodified to A.A.C. R6-13-1208 effective February 13, 1996 (Supp. 96-1).

R6-3-1209. Recodified**Historical Note**

Former Rule 3-1308; Former Section R6-3-1209 repealed, new Section R6-3-1209 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1209 recodified to A.A.C. R6-13-1209 effective February 13, 1996 (Supp. 96-1).

R6-3-1210. Recodified**Historical Note**

Former Rule 3-1309; Former Section R6-3-1210 repealed, new Section R6-3-1210 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1210 recodified to A.A.C. R6-13-1210 effective February 13, 1996 (Supp. 96-1).

R6-3-1211. Recodified**Historical Note**

Former Rule 3-1310; Former Section R6-3-1211 repealed effective March 26, 1976 (Supp. 76-2). New Section R6-3-1211 adopted effective October 13, 1977 (Supp. 77-5). R6-3-1211 recodified to A.A.C. R6-13-1211 effective February 13, 1996 (Supp. 96-1).

R6-3-1212. Recodified**Historical Note**

Former Rule 3-1311; Former Section R6-3-1212 repealed, new Section R6-3-1212 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1212 recodified to A.A.C. R6-13-1212 effective February 13, 1996 (Supp. 96-1).

R6-3-1213. Recodified**Historical Note**

Former Rule 3-1312; Former Section R6-3-1213 repealed, new Section R6-3-1213 adopted effective

March 26, 1976 (Supp. 76-2). R6-3-1213 recodified to A.A.C. R6-13-1213 effective February 13, 1996 (Supp. 96-1).

ARTICLE 13. DEFINITIONS**R6-3-1301. Definitions**

The following definitions apply in A.R.S. Title 23, Chapter 4 (A.R.S. § 23-601 et seq.) and in Articles 13 through 18 and 50 through 56 of this Chapter unless the context otherwise requires:

1. "Agent State" means a state in which an individual files a claim for benefits against another state.
2. "Agricultural employer" means an employer defined in A.R.S. § 23-631(B).
3. "Appeal tribunal", as described in A.R.S. § 23-671, means a hearing officer as defined in A.R.S. § 23-609.01.
4. "Benefit overpayment" means a payment of unemployment insurance benefits in an amount exceeding the amount of benefits to which a person was lawfully entitled.
5. "Benefit overpayment caused by Department error" means an overpayment which resulted from an error committed by Department personnel.
6. "Benefit overpayment classified administrative" means an overpayment which occurred without fault on the part of the claimant.
7. "Benefit overpayment classified fraud" means an overpayment occurred because a claimant knowingly misrepresented or concealed material facts in order to obtain benefits to which the claimant was not lawfully entitled.
8. "Benefit overpayment classified non-fraud" means an overpayment created because the claimant unintentionally gave incorrect or incomplete information.
9. "Board" means the Department's Appeals Board described in A.R.S. § 23-672.
10. "Claimant" means a person who has filed a claim for unemployment insurance benefits.
11. "Combined wage claim" or "a claim filed under the Interstate Arrangement for Combining Wages and Employment" means an unemployment insurance claim based on wages earned in more than 1 state.
12. "Daughter" means a birth, foster, step, or legally adopted female child.
13. "Deputy" means a Department employee who performs claims-taking or adjudication duties in the unemployment insurance program.
14. "Director" means the Director of the Department of Economic Security.
15. "Domestic employer" means an employer defined in A.R.S. § 23-613(C).
16. "Domestic service" means service of a household nature performed by an employee for a person or for a local college club or local chapter of a college sorority or fraternity in or about the private home of the employer or in or about a college club or sorority or fraternity house in connection with the maintenance of the home or premises, or for the comfort and care of the person, family, or members, as distinguished from service which is directly related to the business or career of the employer.
 - a. Domestic service includes:
 - i. "Family", for purposes of this Section, includes foster relationships and relationships by blood, marriage, and adoption.
 - ii. "Private home" means the social unit formed by a person or family residing in a private household. Private home includes the fixed place of abode of a person or family in a private

- house, or in a separate and distinct dwelling unit in an apartment house, hotel, or other similar establishment. Private home also includes a summer or winter home of a person or family. Private home does not include any dwelling house or premises used primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, or used primarily for the purpose of furnishing accommodations or entertainment to clients, customers, or patrons.
- iii. "Service of a household nature" means service customarily rendered by cooks, waiters, butlers, housekeepers, nannies, companions, valets, janitors, laundry workers, caretakers, handypersons, gardeners, and by chauffeurs of automobiles. Service of a household nature does not include service performed by private secretaries, tutors, librarians, or musicians, or by carpenters, plumbers, electricians, painters, or other skilled craftspersons, or by professional or highly trained persons such as registered nurses, licensed practical nurses, and airplane pilots.
 - b. Domestic service does not include:
 - i. Service of a household nature performed in or about a private home in the employ of any employing unit engaged in a business the purpose of which is to furnish services of a household nature to the public.
 - ii. Service of a household nature performed in connection with the operation of rooming, lodging, or boarding houses, hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.
17. "Employment Security Law of Arizona" means A.R.S. Title 23, Chapter 4.
 18. "Experience rating account" means a separate account the Department maintains for each employer in accordance with A.R.S. § 23-727.
 19. "Father" means a birth, foster, step, or legally adoptive male parent.
 20. "Federal Unemployment Tax Act" (FUTA) means 26 U.S.C.A. 3301 et seq.
 21. "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies for payment of benefits to a person who is absent from the state in which the person accumulated benefit credits.
 22. "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of a liable state through the facilities of an agent state.
 23. "Liable state" means any state against which an individual files a claim for benefits through another state.
 24. "Mass separation" means a situation where more than 50 employees of an employing unit have separated from employment for the same reason, for a separation period of at least 1 week.
 25. "Mother" means a birth, foster, step, or legally adoptive female parent.
 26. "Partially unemployed individual" means a person who is regularly employed full time by an employer but who, during a particular week:
 - a. Worked less than the customary full-time hours for such employer because of lack of full-time work,
 - b. Earned less than the person's weekly benefit amount.
 27. "Part-time employment" means employment of a person who, during a particular week, earned less than the person's weekly benefit amount and worked less than full time.
 28. "Pay period" means that period of time during which the wages due on any pay day were earned.
 29. "Paying state" means the state against which a combined wage claim is filed.
 30. "Payments in lieu of contributions" means monetary payments which an employing unit makes to the state unemployment compensation fund, pursuant to an election the employing unit has made.
 31. "Regular employer", as used in Articles 13 and 17, means an employer who is liable for contributions and subject to the experience rating provisions of the Employment Security Law of Arizona.
 32. "Reimburse", as used in A.R.S. § 23-706, means that the Department is either crediting an employer's quarterly statement of account or issuing the employer a refund by warrant.
 33. "Reimbursement employer" means an employer who makes payments in lieu of contributions.
 34. "Son" means a birth, foster, step, or legally adopted male child.
 35. "Spouse" means the lawful husband of a woman or the lawful wife of a man.
 36. "Taxable year" means a calendar year.
 37. "Transferring state" means a state that transfers wages to a paying state for purposes of establishing a combined wage claim.
 38. "Week", except as otherwise defined for a specific rule or in A.R.S. Title 23, Chapter 4, means a calendar week. The term "calendar week" means 7 consecutive days ending at midnight Saturday. For the purposes of A.R.S. §§ 23-613, 23-615(6), and 23-725(B) and (F), if any calendar week includes both December 31 and January 1, the days up to January 1 shall be deemed 1 calendar week and the days beginning January 1 another calendar week.
 39. "Week of unemployment", as used in R6-3-1806, is the week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

Historical Note

Former Rule 3-1319; Amended effective April 17, 1975 (Supp. 75-1). Amended effective January 18, 1978 (Supp. 78-1). Amended effective February 10, 1978 (Supp. 78-1). Amended effective March 28, 1978 (Supp. 78-2). Amended effective August 3, 1978 (Supp. 78-4). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Amended effective February 7, 1980 (Supp. 80-1). Amended subsection (B) effective July 9, 1980. Amended subsection (O) effective July 24, 1980 (Supp. 80-4). Section repealed, new Section adopted effective December 20, 1995 (Supp. 95-4).

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

R6-3-1401. Policy of Nondiscrimination

- A. In the administration of the unemployment insurance program, the Department shall not discriminate against any claimant or employer because of age, race, sex, color, religious creed, national origin, handicap, disability, or political affiliation or belief.

- B.** The Department shall determine initial and continuing eligibility for benefits and liability for employer taxes and administer program services without discrimination, as prescribed by 29 U.S.C. 794 and 42 U.S.C. 1201 et seq.

Historical Note

Former Regulation 40-14. Section R6-3-1401 renumbered to R6-3-1406, new Section R6-3-1401 adopted effective December 20, 1995 (Supp. 95-4).

R6-3-1402. Repealed

Historical Note

Former Regulation 30-6. Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1403. Disclosure of Information and Confidentiality

- A.** Information obtained from employer reports and investigations of claims for unemployment insurance benefits is strictly confidential and shall not be published or disclosed to others except as permitted by authorized personnel within the strict limitations hereinafter stated:
1. To individual employers or their authorized agents if the information directly concerns their liability as an employer or their account with the Department or the information was initially obtained from the employer or the employer's predecessor;
 2. To individual claimants or their authorized representatives if the information directly concerns their status as a claimant;
 3. To public employees in the performance of their official duties, provided the information so disclosed and the source of such information is kept confidential and used only for authorized governmental purposes;
 4. To an agent of the Department designated as such in writing for the purposes of accomplishing certain of the Department's functions, with the proviso the information so obtained or the source of such information is kept confidential and used only for the purpose for which the entity was designated as an agent of the Department;
 5. To the general public when such information does not include information identifiable either directly or indirectly to individual claimants or employing units;
 6. To an outside party after the party has obtained written authorization which has been provided directly to the Department from the employer or claimant permitting the Department to release certain specified information;
 7. To authorized personnel of a requesting entity authorized to receive the information under a data-share agreement established with the Department in accord with the terms of such an agreement.
- B.** No employee or agent of the Department shall testify or give evidence before any court or in any quasi-judicial proceeding concerning unemployment insurance records or information except as herein provided, or as instructed by legal counsel to the Department
- C.** Employees of the Department of Economic Security shall not disclose any information obtained in the course of their duties, whether the information is within their personal knowledge or from files, records, reports, or other documents of the Department, unless they are the individual authorized to disclose such information within the strict limitations imposed above.

Historical Note

Adopted effective July 26, 1978 (Supp. 78-4). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1404. Date of submission and extension of time for payments, appeals, notices, etc.

- A.** Except as otherwise provided by statute or by Department regulation, any payment, appeal, application, request, notice, objection, petition, report, or other information or document submitted to the Department shall be considered received by and filed with the Department:
1. If transmitted via the United States Postal Service or its successor, on the date it is mailed as shown by the postmark or, in the absence of a postmark the postage meter mark, of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.
 2. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
 3. Computation of time shall be made in accordance with and limited to subdivision (a) of Rule 6 of the Rules of Civil Procedure.
- B.** The submission of any payment, appeal, application, request, notice, objection, petition, report, or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to: Department error or misinformation, delay or other action of the United States Postal Service or its successor, or when the delay in submission was because the individual changed his mailing address at a time when there would have been no reason for him to notify the Department of the address change.
1. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.
 2. The Director shall designate personnel who are to decide whether an extension of time shall be granted.
 3. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the Department after considering the circumstances in the case.
 4. If submission is not considered timely, and the subject matter is one for which A.R.S. Chapter 4, Title 23 provides administrative appeal rights, the Department shall issue an appealable decision to the interested party. The decision shall contain the reasons therefor, a statement that the party has the right to appeal the decision, and the period and manner in which such appeal must be filed under the provisions of the Arizona Employment Security Law.
- C.** Any notice, report form, determination, decision, assessment, or other document mailed by the Department shall be considered as having been served on the addressee on the date it is mailed to the addressee's last known address if not served in person. However, when it is established the interested party changed his mailing address at a time when there would have been no reason to notify the Department, it shall be considered as having been served on the addressee on the date it is personally delivered or remailed to his current mailing address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

Historical Note

Adopted effective August 3, 1978 (Supp. 78-4).
Amended effective May 8, 1979 (Supp. 79-3).

R6-3-1405. Shared Work

- A.** Shared Work Plans

1. Participation. The Department shall not permit an employee to participate concurrently in more than 1 shared work plan.
2. Amendment. Upon written request by the shared work employer, the Department shall:
 - a. Approve the transfer of an eligible employee from 1 approved plan to another approved plan; or
 - b. Amend the plan to include an eligible employee who was omitted from the approved plan.
- B. Shared Work Employer's Contribution Rate.** When any of the members of a Joint Experience Rating Account established under the provisions of R6-3-1712(A) have an approved shared work plan, the Department shall assign the members a contribution rate as prescribed in A.R.S. § 23-765.
- C. Shared Work Benefits**
 1. Normal Weekly Hours. In A.R.S. § 23-764, the phrase "normal weekly hours of work for which the employer would not compensate the employee" means the number of hours, as defined in A.R.S. § 23-761(3), less the weekly hours of work for which the employer would compensate the employee, or for which the employer would compensate the employee had the employee worked.
 - a. Normal weekly hours of work include the hours calculated by a shared work employer converting the amount of an employee's average weekly earnings to an hourly equivalent.
 - b. Weekly hours of work for which the employer would compensate the employee include, to the nearest 10th of an hour, actual hours of work and other hours for which the employee has been or will be compensated, such as holiday pay, sick leave pay, and vacation or annual leave pay.
 2. Weekly Certification. For each week of shared work benefits claimed by an employee in an affected group, the employer shall, in a format prescribed by the Department, provide and certify the following information:
 - a. The hours of work for which the employer compensated the employee, and
 - b. Whether the employee refused to accept any work offered by the employer.
 3. Refusal of work. The statutory disqualification prescribed in A.R.S. § 23-776 applies when the Department determines that a shared work claimant failed to accept suitable full-time work offered by the shared work employer. The Department shall determine the suitability of the work offered as prescribed in A.R.S. § 23-776.
 4. Previously assessed disqualification. Designation of an employee as a participant in an affected group does not terminate or suspend a previously assessed disqualification. For purposes of A.R.S. § 23-778, a weekly shared work claim is a valid claim for benefits.
 5. Retirement pay. When retirement pay is deductible as prescribed in A.R.S. § 23-791, the Department shall deduct the weekly retirement amount from the computed shared work benefit amount.
 6. Extended benefits. A shared work claimant is eligible to receive shared work benefits under the extended benefit program if the claimant meets the requirements of A.R.S. § 23-634.
 7. Backdating. In the manner prescribed in R6-3-5475(E)(1), the Department shall backdate the effective date of a shared work initial claim for benefits to an earlier date if the claimant received misinformation about the filing of a claim from the shared work employer or the Department, except that the Department shall not backdate the effective date to a date prior to the effective date of the approved plan showing the claimant as a member of an affected group.
8. Dual claims. The Department shall not permit a claimant to receive regular benefits and shared work benefits concurrently.
9. Termination of shared work employment. A shared work claimant who terminates employment with, or is terminated by, the shared work employer is not eligible for shared work compensation for the calendar week in which the termination occurred. When a termination occurs, the shared work employer shall enter the date of termination on the weekly certification.
10. Offset. The Department shall use shared work benefits to offset any indebtedness to the Department as provided for in A.R.S. § 23-787.
- D. Other Employment.** The Department shall not charge the account of a base-period employer who is not the shared work employer, but who continues to employ a shared work claimant, for benefits paid to the claimant, if the base period employer submits written information of the continued employment within 10 days of the date of the Department's notice that the claimant has 1st filed a claim for benefits.

Historical Note

Adopted effective December 2, 1983 (Supp. 83-6).

Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1406. Employer Elections to Cover Multi-state Workers

- A. Scope and definitions.**
 1. This rule governs the Department in its administrative cooperation with other states participating in the Interstate Reciprocal Coverage Arrangement ("the Arrangement").
 2. In this rule:
 - a. "Agency" means a person or entity lawfully authorized to administer the unemployment compensation law of a state participating in the Arrangement.
 - b. "Services customarily performed" means services performed by an individual in more than 1 state, if the nature of the services gives reasonable assurance that they will continue to be performed in more than 1 state or if such services are required or expected to be performed in more than 1 state under the election.
- B. Submission and approval of coverage elections under the Interstate Reciprocal Coverage Arrangement.**
 1. Any employing unit may file an election to cover under the law of a single participating state all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than 1 participating state. Such an election may be filed, with respect to an individual, with any participating state in which:
 - a. Any part of the individual's services are performed,
 - b. The individual has residence, or
 - c. The employing unit maintains a place of business to which the individual's services bear a reasonable relation.
 2. The agency of the elected state (thus selected and determined) shall initially approve or disapprove the election. If such agency approves the election, the agency shall forward a copy thereof to the agency of each other participating state specified thereon, under whose unemployment compensation law the individual or individuals in question, in the absence of such election, might be covered. Each such interested agency shall approve or disapprove the election.

prove the election as promptly as practicable and shall notify the agency of the elected state accordingly. If its law so requires, any such interested agency, before taking such action, may require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

3. If the agency of the elected state, or the agency of any interested state, disapproves the election, the disapproving agency shall notify the elected state, and the electing employing unit of its action and of its reasons therefor.
 4. Such an election shall take effect as to the elected state only if approved by its agency and by 1 or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it is approved by such agency.
 5. If an election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.
- C. Effective period of elections**
1. Commencement
 - a. An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter.
 - b. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested states in which the employer had no liability to pay contributions for the earlier period in question.
 2. Termination
 - a. The application to any individual under this rule shall terminate, if the agency of the elected state finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than 1 participating state. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.
 - b. Except as provided in subsection (C)(2)(a), each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of the termination to all affected agencies.
 - c. Whenever an election under this rule ceases to apply to any individual, under subsections (C)(2)(a) or (b), the electing unit shall notify the affected individual accordingly.
- D. Reports and notices by the electing unit**
1. The electing unit shall promptly notify each individual affected by its approved election, on the form supplied by the elected state, and shall furnish the elected agency a copy of such notice.
 2. Whenever an individual covered by election under this rule is separated from employment, the electing unit shall again notify the individual, forthwith, as to the state under whose unemployment compensation law the individual's services have been covered. If, at the time of termination, the individual is not located in the elected state, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

3. The electing unit shall immediately report to the elected state any change which occurs in the conditions of employment pertinent to its election, such as cases when an individual's services for the employer cease to be customarily performed in more than one participating state or when a change in the work assigned to an individual requires the individual to perform services in a new participating state.

- E. Approval of reciprocal coverage elections.** The Department shall approve or disapprove reciprocal coverage elections in accordance with this rule.

Historical Note

Renumbered from R6-3-1401 and amended effective December 20, 1995 (Supp. 95-4).

R6-3-1407. Interested Parties

- A.** Interested parties to a benefit determination or a chargeability determination are:
1. A claimant whose right to benefits is affected;
 2. A claimant's most recent employing unit or employer, or any base-period employer, if the employer:
 - a. Returns the Department's Notice to Employer with a signed statement of facts which may affect the claimant's eligibility for benefits or information on the issue of separation from employment within 10 days after the date the Department mails the Notice to the employer's address of record; or
 - b. Makes a bona fide offer of work to the claimant during a week for which the claimant files a claim for benefits, and sends the Department written notification of the offer within 5 days of the offer.
 3. The claimant's most recent employing unit or employer when the claimant is disqualified on the basis of the claimant's separation from employment with the employing unit or employer.
- B.** The Department shall make a previously excluded party an interested party to a decision involving whether wages are usable for a claim whenever the Department determines the decision could adversely affect the excluded party.

Historical Note

New Section R6-3-1407 renumbered from R6-3-1501 and amended effective July 22, 1997 (Supp. 97-3).

R6-3-1408. Seasonal Employment Status; Qualified Transient Lodging Employment

- A.** As used in A.R.S. § 23-793:
1. A "full-time equivalent" means the number of hours in the employing unit's normal work week the employing unit considers a full-time work week, or 40 hours, whichever is less.
 2. "1-year period prior to such slowdown" means the 52 completed calendar weeks immediately preceding the start date of the anticipated slowdown period.
 3. "Previous year" means the same as "1-year period prior to such slowdown."
- B.** For the purpose of A.R.S. § 23-793(B), an application is the form provided by the Department and available to the employer at any unemployment insurance office of the Department or from any unemployment insurance tax representative. The employer shall provide the following information:
1. Identifying information, including the federal employer identification number and transient lodging privilege license number;
 2. The anticipated period of the substantial slowdown of operations, the reason for the anticipated slowdown, and

the expected number of full-time equivalents in the workforce during the slowdown;

3. The previous year's slowdown period, the reason for the slowdown, and the number of full-time equivalents in the employer's workforce in the 12 highest weeks of unemployment during the previous year; and
 4. A copy of the employer's written notice to employees that the employment is seasonal.
- C. Notwithstanding the Department's approval of the employer's application, the Department shall not deny a worker, who has filed a claim for benefits during a substantial slowdown period, the use of wages earned from the employer if the employer, in response to the Department's notice that the worker has filed a claim for benefits, does not provide written information that the worker is unemployed due solely to the substantial slowdown in operations within 10 days of the notice date.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

R6-3-1501. Renumbered

Historical Note

Former Regulation 20-5; Amended effective February 15, 1978 (Supp. 78-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former Section R6-3-1501 amended effective February 7, 1980 (Supp. 80-1). Amended by adding subsection (B) effective July 9, 1980 (Supp. 80-4). Correction, paragraph (2), subparagraph (b) as certified effective February 7, 1980 (Supp. 81-2). Additional correction to subsection (A), paragraph (2), subparagraph (b), "simultaneous" deleted as certified February 7, 1980 (Supp. 81-5). R6-3-1501 renumbered to R6-3-1407 and amended effective July 22, 1997 (Supp. 97-4).

R6-3-1502. Appeals Process, General

- A. The Board or a hearing officer in the Department's Office of Appeals may informally dispose of an appeal or petition without further appellate review on the merits:
1. By withdrawal, if the appellant withdraws the appeal in writing or on the record at any time before the decision is issued; or
 2. By dismissal, if the appellant fails to file the appeal within the time permitted by the Employment Security Law or Department rules; or
 3. By stipulation, if the parties agree on the record or in writing at any time before the decision is issued, subject to approval by the Appeals Tribunal; or
 4. By default, if the appellant fails to appear or waives appearance at the scheduled hearing.
- B. Notice of hearing
1. Place of hearing. Hearings shall be held at those regularly established hearing locations most convenient to the interested parties, or, at the discretion of the presiding officer, by telephone. Written notice will advise any interested party that the party has a right to be present in person or through counsel, or both, or to send written questions to the hearing officer, who will ensure that the questions are asked of the other party or appropriate witnesses, provided the questions are received prior to the designated hearing date and are germane to the issues to be decided.
 2. Time and contents of notice. All interested parties to a hearing shall be given at least 10 business days' notice of

hearing, except that any interested party may waive, either in writing or on the record, the right to notice. The notice shall contain the time and place of hearing, the issues involved, and the name of the hearing officer who will hold the hearing, but if, by reason of the nature of the proceedings, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, the issues shall be fully stated as soon as practicable. In any event, reasonable opportunity shall be afforded all parties to become aware of the issues and to present evidence and argument with respect thereto.

3. Continued, reopened, or rescheduled hearings. Notice of time, place and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
 4. Mailing of notices. Notices of hearings shall be mailed to the interested parties by regular mail, 1st class, postage prepaid.
- C. Consolidation of cases. When the same or substantially similar evidence is relevant and material to the issues in more than one case, proceedings thereon may be conducted jointly, a single record of the proceedings made and evidence introduced with respect to one case considered as introduced in the others, unless the hearing officer determines that such consolidation would be prejudicial to the interests or rights of any interested party.
- D. Witnesses and subpoenas
1. An interested party shall arrange for the presence of that party's witnesses at a hearing.
 2. A notice to attend a hearing, or a subpoena, may be issued by the hearing officer on the hearing officer's own motion.
 3. Subpoenas requiring the attendance of witnesses or the production of documentary evidence at a hearing may be issued by the hearing officer on the hearing officer's own motion or upon written application by an interested party or the Deputy. Such request shall contain the name of the individual or documents desired, the address at which the subpoena may be served, and a brief statement of the facts which the applicant expects to prove by the individual or documents requested. The application shall be submitted to the Department at least 5 calendar days before the hearing to permit preparation and service of the subpoena before the hearing.
 4. Witnesses subpoenaed who attend hearings shall be allowed fees at the same rate as paid by the Superior Court.
- E. Information. In any hearing in which a claimant appears before the Appeals Board, the employing unit shall submit sworn or unsworn reports with respect to such person employed by it, which the Board deems necessary for the proper presentation of the claimant's claim.
- F. Postponement of hearing. A hearing officer shall determine and order hearing postponements as prescribed in A.R.S. § 23-681(A) and (B).
- G. Disqualification for cause. No person shall participate on behalf of the Department in any case in which the person is an interested party. A challenge regarding the interest of a hearing officer may be heard and decided by that hearing officer, or, upon written request by the party making the challenge, referred to the hearing officer's immediate supervisor. Challenges regarding the interest of a member of the Appeals Board shall be decided by the remaining members of the Board, based upon A.R.S. § 38-503. When a challenge is sustained, or the member voluntarily withdraws from the case, the Chairman of the Board shall so advise the Director, who may

appoint an individual to act for the member of the Board in the particular case.

- H.** Change of hearing officer. Not later than 5 days prior to the date set for the hearing, any interested party may file a written request for change of hearing officer. The Appeal Tribunal shall immediately transfer the matter to another hearing officer who shall conduct the hearing. No more than 1 change of hearing officer shall be granted to any 1 party.
- I.** Representation of interested parties.
 - 1. In proceedings before the Board or a hearing officer, parties may be represented as authorized by Supreme Court rules.
 - 2. An Appeal Tribunal or the Appeals Board may refuse to allow any person who intentionally and repeatedly interferes with the orderly conduct of a proceeding before an Appeal Tribunal or the Board or who fails to comply with the provisions of the Employment Security Law or the rules or orders of the Department to represent an interested party in the proceeding.
- J.** Fees. To determine the reasonableness of a proposed fee in excess of \$750, the Appeal Tribunal or Board shall consider the following factors:
 - 1. The amount of time devoted to the representation,
 - 2. The difficulty of the case and the novelty or complexity of the issues,
 - 3. The experience of the attorney or agent handling the case,
 - 4. The merits of the claims or defenses presented by the opposing party,
 - 5. Whether the attorney or agent's efforts were superfluous to the results achieved in the case,
 - 6. The results achieved by the agent or attorney, and
 - 7. Any other relevant factors.
- K.** Written statement. Within 10 days prior to the hearing, an interested party may submit to the Department a written statement setting forth the facts of the case.
- L.** Hearings. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal or petition.
 - 1. Public hearings. All hearings before an Appeal Tribunal or the Appeals Board shall be open to the public, but the hearing officer conducting a hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties, within the requirements of A.R.S. §§ 23-722, 38-431.01, and 38-431.03.
 - 2. Stipulations. The parties to an appeal, with the consent of the hearing officer, may stipulate to the facts involved in writing or in open forum and may also waive the hearing. The case may be decided based on such stipulations, or such additional evidence may be required or obtained as necessary to render a fair and complete decision.
 - 3. Record of the hearing. A full and complete record, including properly identified exhibits, shall be kept of all proceedings in connection with an appeal or petition, and such record shall be open for inspection by any interested party. When a transcript of the proceedings is made for the Department's use or for further proceedings, a copy may, upon written request be furnished to interested parties.
 - 4. Oral arguments and briefs. At the conclusion of any hearing, the interested parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The hearing officer shall afford interested parties an opportunity either to present oral argu-

ment or to file briefs, or both; however, any party not represented as set forth in subsection (I)(1) shall be permitted oral argument. The hearing officer may limit the time of oral argument.

- 5. Continuances or re-openings. The hearing officer may, on the hearing officer's own motion or at the request of any interested party, upon a showing of good cause, continue the hearing to a future time or reopen a hearing before a decision is issued to take additional evidence.

M. Decision.

- 1. Contents of the decision. All evidence, including records and documents of the Department which the Tribunal or Appeals Board makes a part of the record of the hearing shall be considered in determination of the case. Pursuant to A.R.S. § 23-674, every decision shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.
- 2. Mailing to interested parties; notice of appeal rights. A copy of such decision, together with an explanation of appeal rights, shall be personally delivered or sent by either regular 1st class, postage prepaid mail or certified mail to each interested party or the party's representative or attorney of record.

Historical Note

Former Regulation 20-1; Amended as an emergency effective April 28, 1976 (Supp. 76-2). Former Section R6-3-1502 repealed, new Section R6-3-1502 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). Amended subsections (C) and (J) effective September 23, 1981 (Supp. 81-5). Amended effective September 25, 1991 (Supp. 91-3). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1503. Proceedings Before an Appeal Tribunal

- A.** Filing an appeal. Any interested party to a determination of a Deputy may appeal to an Appeal Tribunal within the time limits prescribed in A.R.S. § 23-773(B). The appeal shall be in writing, must be signed by the appellant or authorized agent, and may be filed personally or by mail through any public employment office in the United States or Canada, or directly with the Department of Economic Security, Phoenix, Arizona.
- B.** Appeal Tribunal hearings
 - 1. Manner of holding hearings. All hearings shall be conducted in accordance with A.R.S. § 23-674, in a manner which will ascertain the substantial rights of the persons involved, and all testimony shall be taken under oath or affirmation.
 - 2. Jurisdiction. The Appeal Tribunal's decision and authority is confined solely to issues arising under the Employment Security Law. In every case, the Appeal Tribunal shall render a decision on the issues as stated in the notice of hearing. The Appeal Tribunal may also hear and decide any issues not previously considered by the Deputy which arise during the hearing, provided all interested parties waive the right to notice on the issues. If any interested party is surprised by a new issue, and unprepared to proceed, the Appeal Tribunal may continue the hearing, or may remand the matter to the Deputy for consideration and action upon such issues.
 - 3. Failure of party to appear
 - a. If there is no appearance on behalf of an interested party at a scheduled hearing, the Appeal Tribunal may adjourn the hearing to a later date or proceed to review the evidence of record and such other evi-

dence as may be presented at the scheduled hearing and make a disposition or decision on the merits of the case.

- b. If a decision is issued adverse to any interested party that failed to appear at a scheduled hearing, that party may file 1 written request for a hearing to determine if good cause exists to reopen the hearing. The request to reopen shall be filed within 15 calendar days of the mailing date of the decision or disposition and shall set forth the reasons for the failure to appear.
- c. A hearing shall be held to determine whether there was good cause for the failure to appear and, in the discretion of the hearing officer, to review the merits of the case. Upon a finding of good cause for failure to appear at the scheduled hearing, the disposition or decision on the merits shall be vacated and the case reset for hearing in accordance with R6-3-1502 et seq. unless previously held.
- d. Good cause warranting reopening of a case shall be established upon proof that both the failure to appear and failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.
- e. A party may obtain only 1 hearing to determine if good cause exists to reopen a case.
 - i. If a party does not appear at the scheduled good cause hearing, a party may file a written request for review to determine whether good cause exists for failure to appear at both the good cause hearing and the original hearing on the merits.
 - ii. If a case is reopened upon a finding of good cause, and the party fails to appear at the time and date of the new hearing, the party may file a written request for review to determine whether good cause exists for failure to appear at the new hearing.
- f. A request for review shall state the reasons for the party's failure to appear. The party shall attach copies of any documentation supporting the request.
- g. The Appeal Tribunal shall review the request and the evidence of record to determine if there is good cause to reopen the hearing on the issue of good cause or on the merits and shall issue a decision accordingly.
- h. Any interested party may appeal to the Unemployment Insurance Appeals Board from the decision of a hearing officer which denies reopening for lack of good cause as defined in subsection (B)(3)(d). The appeal must be in writing and filed within 15 calendar days of the date of mailing of the decision denying reopening. If the Unemployment Insurance Appeals Board reverses the denial to reopen, then the case shall be remanded to the Appeal Tribunal and reset for hearing on the merits in accordance with R6-3-1502 et seq.
- i. When an appellant fails to appear or waive appearance, the Appeal Tribunal may enter a default disposition in accordance with R6-3-1502(A)(4) without further right to appeal except as provided in this rule.
- j. Notwithstanding the foregoing provisions, an appellee who fails to appear may appeal to the Unemployment Insurance Appeals Board from an adverse

decision on the merits within 15 calendar days of the date of mailing of the decision.

- C. Finality of Appeal Tribunal decision. As set forth in A.R.S. § 23-671, unless within 15 calendar days after the decision is mailed or otherwise delivered to the interested parties, petition for review is initiated or the Appeals Board assumes jurisdiction over the matter on its own motion, the Appeal Tribunal decision becomes final. After a decision of the Appeal Tribunal has become final, the matter shall not be reopened, reconsidered, or reheard, and the decision shall not be changed except to correct clerical errors.

Historical Note

Former Regulation 20-2; Amended as an emergency effective April 28, 1976 (Supp. 76-2). Former Section R6-3-1503 repealed, new Section R6-3-1503 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective December 3, 1979 (Supp. 79-6). Amended subsection (B)(3) effective September 11, 1981 (Supp. 81-5). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1504. Review of Appeal Tribunal Decisions

- A. Petition for review.
 1. Any appeal will be entertained. An interested party to an Appeal Tribunal decision may petition for review of the decision. Petition for review may be based upon one or more of the following grounds:
 - a. Irregularity on part of presiding officer or other party to proceedings.
 - b. Abuse of discretion on part of hearing officer whereby petitioner was deprived of a fair hearing.
 - c. Newly discovered evidence which could not with reasonable diligence have been discovered and produced at time of original hearing.
 - d. There was error in admission or exclusion of evidence in Tribunal hearing.
 - e. There was error in law in Tribunal hearing.
 - f. Other good and sufficient grounds.
 2. The petition shall be in writing and must be filed within 15 calendar days after mailing of the decision. The petition must be signed by the appellant or the appellant's authorized agent. The petition may be filed personally or by mail through any public employment office in the United States or Canada or directly with the Department of Economic Security, Phoenix, Arizona. The Board shall mail copies of such petition to the other interested parties and to the Deputy.
- B. Powers of the Board. Upon receipt of a timely petition for review, the Board shall be furnished the complete record of the case, including transcript unless the parties stipulate otherwise. Thereafter the Board may:
 1. Affirm, reverse, modify or set aside the decision of the Appeal Tribunal on the basis of the record in the case, or
 2. Order the taking of additional evidence, or
 3. Issue a disposition in accordance with R6-3-1502(A).
- C. Removal or referral to the Board
 1. Referral to Board by Appeal Tribunal. In accordance with A.R.S. § 23-671(B), an Appeal Tribunal may refer any case before it or any question involved therein to the Board. Such referral shall be in writing, specifying the reasons therefor and signed by the Appeal Tribunal. The Board shall mail copies of such referral to all interested parties.
 - a. If the entire case is accepted by the Board, the Board shall be furnished the complete record of the case,

including a transcript of any proceedings held. Thereafter, the Board may, after affording the parties reasonable opportunity for a fair hearing:

- i. Affirm, reverse, modify or set aside the determination of the Deputy on the basis of the record in the case, or
 - ii. Order the taking of additional evidence, and decide the case.
- b. If a question involved in a case is accepted by the Board, the Board shall be furnished with such information as the Board deems necessary to resolve the question. Thereafter the interested parties and the Appeal Tribunal shall be informed, in writing, of the Board's resolution of the question. Upon resolution of the question, the Appeal Tribunal shall proceed with the case.
2. Removal from Appeal Tribunal by Board. In accordance with A.R.S. § 23-671(D) and (E), the Board may remove to itself any matter before an Appeal Tribunal if the Tribunal decision has not become final. If such action is taken, the Board shall mail written notice of the removal to the interested parties. The Board shall be furnished the complete record of the case, including a transcript of any proceedings held. Thereafter, the Board may:
- a. Set aside the decision of the Appeal Tribunal and remand the proceedings to another Appeal Tribunal for review and decision; or
 - b. Order the taking of additional evidence; or
 - c. Remove the proceedings to itself for review and decision; or
 - d. Order the taking of additional evidence, and affirm, reverse, modify or set aside the determination of the Deputy or the decision of the Appeal Tribunal.

Historical Note

Former Regulation 20-3; Amended as an emergency effective April 30, 1976 (Supp. 76-2). Amended effective August 3, 1978 (Supp. 78-4). Former Section R6-3-1504 repealed, new Section R6-3-1504 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New Section R6-3-1504 adopted effective February 7, 1980 (Supp. 80-1). Amended subsection (A) effective September 23, 1980 (Supp. 80-5). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1505. Appeals Board Proceedings

- A. Acting Member. If a Board member is unable, for any reason, to participate in a case or cases, upon request of the Chairperson of the Appeals Board, the Director shall appoint an individual to act for the member.
- B. Waiver of Bond on Filing of Appeals. When an appeal is taken against the Department to the Court of Appeals, the Board shall waive filing of the bond, as provided by Rule 10(a) of the Arizona Rules of Civil Appellate Procedure.

Historical Note

Former Rule 10-3; Amended effective January 3, 1975 (Supp. 75-1). Amended effective December 17, 1975 (Supp. 75-2). Repealed effective August 3, 1978 (Supp. 78-4). New Section R6-3-1505 adopted as an emergency effective August 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New Section R6-3-1505 adopted effective February 7, 1980 (Supp. 80-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1506. Contribution Cases

- A. This rule applies to petitions for review and appeals arising under A.R.S. §§ 23-724, 23-732, 23-733, and 23-750.
- B. Petition for hearing or review
 1. Any interested party to a reconsidered determination or a denial of application for reconsidered determination or a petition for reassessment may petition the Appeals Board for review. The petition shall be in writing and shall be signed by the appellant or the authorized agent. The petition shall be filed within 15 calendar days after the mailing of the reconsidered determination or denial thereof involving 1 of the following issues:
 - a. Benefits paid and chargeable to the account (A.R.S. § 23-732);
 - b. The rate of contributions (A.R.S. § 23-732);
 - c. Transfer of experience rating account of a distinct and severable portion of an employing unit (A.R.S. § 23-733);
 - d. Delinquency, deficiency, or jeopardy assessment (A.R.S. §§ 23-738, 23-738.01, and 23-739).
 2. The petition must be filed within 30 days (unless the time is extended for good cause) after mailing of the reconsidered determination or denial thereof involving one of the following issues:
 - a. An employing unit constitutes an employer (A.R.S. § 23-724);
 - b. A nonprofit or governmental employing unit constitutes a rated or reimbursing employer (A.R.S. § 23-750(B));
 - c. Services performed for or in connection with the business or the employing unit constitute employment (A.R.S. § 23-724);
 - d. Remuneration for services constitute wages (A.R.S. § 23-724);
 - e. The amount of payments in lieu of contributions due from the employing unit (A.R.S. § 23-750(C));
 - f. Transfer of the entire experience rating account of predecessor employer to successor (A.R.S. § 23-733);
 - g. Liability of successor employer for predecessor's unpaid contributions (A.R.S. § 23-733).
- C. Requirement for hearing or review. A petition for hearing or review shall be denied if the employer fails to comply with the contribution and wage report requirements of A.R.S. § 23-724 within 30 days of service of a reconsidered determination or disposition. The Department may, upon its finding of good cause, extend the 30-day period for filing the required reports. Upon denial of a petition for hearing or review, the prior reconsidered determination or disposition shall become final.

Historical Note

Former Regulation 20-4; Amended as an emergency effective April 30, 1976 (Supp. 76-2). Correction to subsection (D), paragraph (1) Supp. 76-2 (Supp. 77-6). Former Section R6-3-1506 repealed, new Section R6-3-1506 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective March 21, 1980 (Supp. 80-2). Amended effective April 9, 1981 (Supp. 81-2). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1507. Appeals from Labor Dispute Determinations

- A. This rule applies to appeals from determinations released under A.R.S. § 23-673.
- B. Filing of appeal. Any interested party to a determination of a deputy denying or awarding benefits under the provisions of

A.R.S. § 23-777 for unemployment due to a labor dispute may file an appeal within 15 calendar days after the determination is mailed to the interested party. The appeal shall be in writing, signed by the appellant or the appellant's authorized agent, and may be filed personally or by mail through any public employment office in the United States or Canada or directly with the Department of Economic Security. Any appeal so filed is removed to the Appeals Board under the provisions of A.R.S. § 23-673(B).

C. Disposition by the Appeals Board

1. Determination based on hearing. If the determination appealed from was based on a fair hearing, the Appeals Board may:
 - a. Make its decision based on the evidence previously submitted, or
 - b. Order the taking of additional evidence.
2. Determination based on investigation. If the determination appealed from was based upon investigation without hearing, the Appeals Board shall direct that a hearing be held.

Historical Note

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective December 3, 1979 (Supp. 79-6). Amended effective December 20, 1995 (Supp. 95-4).

ARTICLE 16. FUNDS

R6-3-1601. Transfers and warrants

In conformity with Sections 23-701, 23-702, 23-703 and 23-704 of the Employment Security Law of Arizona, transfers and refunds of funds from the Unemployment Compensation Fund -- Clearing Account shall be made by warrant issued by the Department only for the following purposes:

- A. To transfer monies to the Secretary of the Treasury of the United States to the credit of the account of this state in the Unemployment Trust Fund.
- B. To refund monies to employers for overpayments of contributions, interest and penalties collected.
- C. To transfer penalties and interest collected from employers to the Special Administration Fund.
- D. To transfer lien fees collected from employers to the Administration Fund.
- E. To transfer monies erroneously deposited to the clearing account to the proper account or fund.

Historical Note

Former Regulation 10-7.

ARTICLE 17. CONTRIBUTIONS

R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona

- A. An employer shall ascertain the Social Security account number of each worker in employment with the employer.
- B. The employer shall report the worker's Social Security account number in making any report required by the Department in the administration of the Employment Security Law with respect to a worker.
- C. If an employer has a worker engaged in employment who does not have a Social Security number, the employer shall ask the worker to show a receipt issued by an office of the Social Security Administration acknowledging that the worker has filed an application for an account number. The receipt shall be retained by the worker. In making any report required by the Department with respect to such a worker, the employer shall report the date of issue of the receipt, its termination date,

the address of the issuing office, and the name and address of the worker exactly as shown in the receipt.

Historical Note

Former Regulation 10-1. Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1702. Maintenance and inspection of records

- A. Each employing unit, as defined in A.R.S. § 23-614, including any employing unit which considers that it is not an employer subject to the Act or that services performed for it constitute exempt employment or do not constitute employment, shall establish and preserve true and accurate records of all disbursements made in cash, by check, or in any other medium. Such records shall contain the date of disbursement, the amount, or a clear identity of the form of remuneration if in any medium other than cash, the name of the payee and the purpose for the disbursement. Examples of records which shall be made available for audit, inspection or copying, as provided by subsections (C) and (E) of this regulation, include, but are not limited to, the following:
 1. Check stubs and cancelled checks for all payments.
 2. Cash receipts and disbursement records.
 3. Payroll journal.
 4. Purchase journal.
 5. General journal.
 6. General ledger.
 7. Payroll tax reports for all federal and state agencies.
 8. Individual earnings records.
- B. Each employing unit shall establish and preserve records with respect to services performed for it which shall contain the following:
 1. For each pay period:
 - a. The beginning and ending dates of such period.
 - b. The total amount of remuneration whether in cash, by check or in any other medium paid in such pay period and the date of such payment.
 - c. The dates in each calendar week on which there were the largest number of workers in employment and the number of such workers.
 2. For each worker:
 - a. Full name.
 - b. Social Security account number.
 - c. Date on which the individual was hired, rehired, or returned to work after temporary layoff.
 - d. Date of and reason for separation from work.
 - e. Amount of remuneration whether in cash, by check, or in any other medium paid in each calendar quarter.
 - f. The place in which the services are performed. For the purpose of this record, the place where the services are performed shall be reported as the city or town in which the services are performed in Arizona, or the county in which the services are performed in Arizona, if outside such a city. If the services are performed in more than one such city, town, or county in Arizona, the place where the services are performed shall be reported as the city, town, or county in Arizona in which the base of operation is located. If the services are performed both within and without Arizona, the place where the services are performed shall be reported as the city, town, or county in Arizona in which the base of operations is located; or if the base of operations is not located in Arizona, as the city, town, or county in Arizona from which the services are directed or controlled; or if the place from which the services are

directed or controlled is also outside Arizona, as the city, town, or county in Arizona where the individual resides.

- g. The remuneration paid for each period showing separately:
 - i. Money wages, excluding special payments.
 - ii. Reasonable cash value, as determined by the Department, of the remuneration paid by the employing unit in any medium other than cash, but in no event shall such determined value be in an amount less than that provided by Department regulation where so provided, excluding special payments in a medium other than cash.
 - iii. Special payments which are not due on any pay day, including annual bonuses, gifts, and prizes. Value of special payments other than cash shall be determined as set forth in (ii) above.

- 3. In order for a determination of an employer's liability to be made, the employer's records are required to contain the information required in subparagraph (B)(1)(c) of this regulation. If the employer's records do not contain this information, it shall be presumed that all of the individuals performing services in the pay period performed services for some portion of the same day which is the day in which the largest number of individuals performed services in each week of the pay period.

- C. The records required to be preserved in subsections (A) and (B) of this regulation shall be preserved for a period of not less than 4 full calendar years. Such records together with all other business records which, as determined by the Department, are reasonably necessary to verify the entries in such records or for a proper determination of coverage or tax liability or benefit eligibility shall be made available for audit, inspection or copying by the Department at any reasonable time and as often as may be necessary.

- D. An employing unit shall no longer be required to preserve the records specified in subsections (A) and (B) with regard to all or certain individuals, services and remuneration after being notified in writing by the Department that those records are no longer required. Such notice from the Department shall be given only after the Department determines that the individuals, services and remuneration are not subject to the Act.

- E. Any employing unit that does not maintain records in this state that contain the information prescribed in this regulation pertaining to services performed for it in this state shall, upon the request of a representative of the Department, make such information available to the Department at a location specified by the Department without reasonable delay.

Historical Note

Former Regulation 40-1; Amended effective June 2, 1980 (Supp. 80-3). Amended effective November 18, 1981 (Supp. 81-6).

R6-3-1703. Employer reports

- A. General. Each employing unit shall fully and clearly report to the Department any information required in a manner designated by the Department. Unless otherwise specified, the information shall be returned within 10 days after the date of mailing of a request required to be returned to the Department.
- B. Quarterly Contribution and Wage Reports
 - 1. Except as provided in paragraph (3) of this subsection, each employer as defined in A.R.S. § 23-613 shall file with the Department a completed Contribution and Wage Report within the time prescribed in A.C.R.R. R6-3-1704. The information required shall include, but is not limited to:

- a. Total number of employees each month of the quarter on all types of payrolls for the payroll period which includes the 12th of each month in the quarter;
- b. Total wages paid in the quarter;
- c. Total wages paid in the quarter which are in excess of the first \$7,000 paid to each employee within any calendar year which begins after December 31, 1982; and for quarters prior to January 1, 1983, total wages paid in the quarter which are in excess of the first \$6,000 paid to each individual employee within the calendar year;
- d. Total taxable wages paid in the quarter;
- e. A listing of employees which includes each employee's name, social security number, and total gross wages paid that employee in the quarter.

- 2. Failure to receive a quarterly Contribution and Wage Report form shall not relieve the employer of the responsibility for filing the report.

- 3. Request for suspension of quarterly filing requirements. An employer who continues operations but has discontinued paying wages to employees and does not expect to pay wages in the near future may request in writing that the Department suspend quarterly filing requirements. The request shall include the date on which the employer ceased paying wages. When the employer's request for suspension is approved, the employer will not be required to file quarterly Contribution and Wage Reports or pay contributions until the next regular reporting date after wages to employees are again paid, and the absence of such quarterly reports or contributions shall not make such employer delinquent upon the records of the Department.

- C. Report of changes. Each employer as defined in A.R.S. § 23-613 shall promptly notify the Department in writing of any change in its business operations. Changes include: the acquisition or disposal of all or any part of the business operations or assets; a change in business name or address; bankruptcy or receivership; or any other change pertaining to the operation or ownership of the business operations. The notification shall include the date of change, and the name, address, and telephone number of the person, firm, corporation or official placed in charge of the organization, trade or assets of the business.

Historical Note

Former Regulation 40-2; Amended effective January 10, 1977 (Supp. 77-1). Correction, subsection (B), paragraph (1) (Supp. 81-6). Former Section R6-3-1703 repealed, new Section R6-3-1703 adopted effective October 24, 1983 (Supp. 83-5).

R6-3-1704. Due date of quarterly reports, contributions, and payments in lieu of contributions

- A. Received date. If any due date prescribed in this regulation falls on a Saturday or Sunday, or a legal holiday, the due date shall be the next following business day. Quarterly reports, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the Department.
- B. Regular due date. Each employing unit which is a covered employer subject to Title 23, Chapter 4, A.R.S., shall file with the Department quarterly reports on or before the due date; any employer failing to file a quarterly report when due is delinquent. Except as otherwise provided in this regulation, quarterly contribution and wage reports are due and contributions

are due and payable on or before the last day of the month following the close of each calendar quarter in which the wages were paid, except that the contributions with respect to wages which are constructively paid shall be payable for the quarter in which such wages are constructively paid as provided by regulation R6-3-1705. Payments in lieu of contributions are due and payable on or before the last day of the second month following the close of each calendar quarter in which benefit claims are paid. Quarterly notification of the amount of payments in lieu of contributions due from an employer shall be mailed to his last known address following the end of each calendar quarter.

- C. Due date for new employer. Quarterly contribution and wage reports due from an employer for the first time by reason of said employer's becoming subject during a current calendar year shall be deemed due on all wages paid by said employer for the preceding portion of that year on the last day of the month following the calendar quarter during which said employer became subject to Title 23, Chapter 4, A.R.S. Contributions due from such an employer who is liable for contributions shall be deemed due and payable on all wages paid by said employer for the preceding portion of that year on the same day as his quarterly contribution and wage reports for such period are due.

- D. Delinquent date, and penalty, and interest. A quarterly report or contributions payment or payment in lieu of contributions which is not received on or before the due date is delinquent.

1. An employer who fails to file on or before the due date a contribution and wage report shall pay to the Department for each such delinquent report, subject to waiver for good cause shown, a penalty as prescribed in A.R.S. § 23-723(A).

No penalty shall apply to delinquent reports when the employer proves to the satisfaction of the Department that no wages were paid and no contributions were due.

2. An employer who has not paid contributions or payments in lieu of contributions on or before the due date shall pay interest on the whole or part thereof remaining unpaid at the rate of one percent per month, or fraction thereof, from and after the due date until payment is received by the Department unless good cause is shown why such interest shall be waived.

- E. Due date upon demand. If the Department finds that the collection of any contribution or payment in lieu of contributions will be jeopardized by delaying the collection thereof until the date otherwise prescribed, upon written demand by the Department such contribution or payment in lieu of contributions shall become immediately payable, and if not submitted within 10 days after such demand shall become delinquent.

- F. Extension of time for submission of reports

1. When an employer files a written request for an extension of time for filing any quarterly contribution and wage report before the due date for the report, the Department may grant, in writing, an extension for filing such report and paying the contributions due thereon if good cause is shown for the employer being unable to file the report by the due date. No extension shall postpone the due date for more than 30 days nor shall any extension be granted solely to defer the payment of contributions.
2. Subject to waiver for good cause shown, an employer who has been granted an extension and who fails to file the report and to pay his contributions on or before the termination of the period of such extension, shall be assessed the penalty for late filing and interest shall be due and payable from the original due date as if no extension had been granted.

Historical Note

Former Regulation 40-3; Amended effective January 3, 1975 (Supp. 75-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective November 18, 1981 (Supp. 81-6).

R6-3-1705. Wages

- A. "Wages paid" includes both wages actually received by the worker and wages constructively paid. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually received. To constitute payment in such cases the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their payment brought within his own control and disposition.
- B. The name by which the remuneration for employment, or potential employment as provided in subsection (E) of this rule, is designated or the basis on which the remuneration is paid is immaterial. It may be paid in cash or in a medium other than cash, on the basis of piece work or percentage of profits, or it may be paid on an hourly, daily, weekly, monthly, annual or other basis. The remuneration may also be paid on the basis of an estimated or agreed upon amount in order to resolve an issue arising out of an employment or potential employment relationship. Remuneration paid in goods or services shall be computed on the basis of the reasonable cash value of the goods or services at the time of payment.
- C. When an employer succeeds to the business or a part of the business of a predecessor employer, wages for employment covered by A.R.S. Title 23, Chapter 4, paid to an individual by the predecessor and reported to the Department shall be used in determining the wages subject to contributions paid to such individual for continued employment by the successor employer.
- D. The provisions of subsection (C) of this rule do not apply to an employer for any calendar year for which the employer is liable for payments in lieu of contributions.
- E. Wages include payments made to an individual by an employer arising out of an actual or potential employment relationship. Such payments include:
1. An award of unpaid minimum wages or overtime compensation under the Fair Labor Standards Act.
 2. An order of the National Labor Relations Board to compensate for the loss of pay.
 3. An order of any federal or state agency on account of real or alleged discrimination in hiring, promotion, salary administration or termination in violation of law.
 4. A decision of a court or an arbitrator in a dispute over an actual or alleged breach of contract pertaining to wages, hours of work or other conditions of employment.
 5. A private agreement between the parties in settlement of any of the above situations in lieu of an award, order or decision.
 6. Any other payments made on account of the employment relationship, except those listed in subsection (F) of this rule.
- F. Wages do not include:
1. Payments by an employer made to an individual which are identified in an award, order, decision or agreement as exemplary damages or medical expenses.

2. Payment by employers made to a plan exempt under section 501(c)(17) of the Internal Revenue Code of 1986 for the payment of supplemental unemployment benefits.

Historical Note

Former Regulation 40-4; Amended effective January 10, 1977 (Supp. 77-1). Amended effective November 4, 1980 (Supp. 80-4). Amended subsections (B) through (F) effective April 30, 1982 (Supp. 82-2). Correction, subsection (D), deleted reference to subsection (F) of this regulation (Supp. 83-3). Former Section R6-3-1705 repealed, new Section R6-3-1705 adopted effective March 16, 1988 (Supp. 88-1).

R6-3-1706. Combining included and excluded services

Section 23-615 of the Employment Security Law of Arizona provides that: "'Employment' means any service of whatever nature performed by an employee for the person employing him, . . ."

In conformity with this Section, the Department of Economic Security prescribes:

- A. If one-half or more of the services performed during any period by an employee for the person employing him constitutes employment, all of the services of such employee for such period shall be deemed to be employment, but if more than one-half of the services performed during any such pay period by an employee for the person employing him does not constitute employment, then none of the services of such employee for such period shall be deemed to be employment.
- B. As used in this regulation the term "pay period" means a period of not more than 31 consecutive days for which payment of remuneration is ordinarily made to the employee by the person employing him.

Historical Note

Former Regulation 40-5.

R6-3-1707. Repealed

Historical Note

Former Rule 10-3; Amended effective January 3, 1975 (Supp. 75-1). Repealed effective August 3, 1978 (Supp. 78-4).

R6-3-1708. Employer Charges

- A. In conformity with A.R.S. §§ 23-727, 23-773, and 23-777, the Department of Economic Security prescribes:
- B. When the Department establishes a benefit overpayment, the Department shall proportionately credit the amount of the overpayment to the experience rating accounts of the claimant's base-period employers, who are being charged as of the calendar quarter the overpayment is established.
- C. When the Department transfers wage credits to another state for use in establishing a claim, the Department shall:
 1. Not charge an experience rating account for any benefits paid when the transferred wage credits are insufficient to establish a claim in this state; or
 2. Determine chargeability of the experience rating account as prescribed in A.R.S. § 23-727(D) when the wage credits are sufficient to establish a claim, except, if the account is charged, total charges shall not exceed the maximum amount payable by this state; or
 3. Not relieve a reimbursement employer of payments in lieu of contributions, including charges exceeding the maximum amount payable by this state.
- D. Except as otherwise provided by A.R.S. § 23-727(E) and A.A.C. R6-3-1708(E), once the Department noncharges the experience rating account of an employer for benefits paid during the benefit year, the account remains noncharged for the duration of the benefit year. If the employer reemploys the

claimant during the benefit year, the circumstances of the reemployment separation determine chargeability of the employer's account for any benefits paid during a benefit year beginning after the reemployment separation.

D. As required by A.R.S. § 23-777(C):

1. The Department shall end the noncharge to the experience rating account of a base-period employer of a worker who is unemployed due to a labor dispute and shall determine the employer's chargeability for benefits in accordance with A.R.S. § 23-727 in the following circumstances:
 - a. The labor dispute ended and the worker returned to work or refused an offer of work with the employer involved in the labor dispute; or
 - b. The dispute is ongoing and the worker:
 - i. Had bona fide intervening employment that meets the provisions of R6-3-5604(C) and is no longer unemployed due to the labor dispute, or
 - ii. Was permanently replaced by the labor dispute employer.
 2. When a worker remains unemployed after a labor dispute ends, the Department shall continue to noncharge the experience rating account of the worker's base-period employer if the labor-dispute employer presents evidence, within 10 days of the Department's request, that the employer has a continuing employer-employee relationship with the worker. Evidence establishing the relationship may include:
 - a. Placement of the worker's name on the recall list;
 - b. Continuation of the worker's benefits, including insurance, profit sharing, vacation, and sick leave; and
 - c. Retention of the worker's seniority rights.
 3. When the worker's continued unemployment ceases to be a result of the labor dispute, the Department shall redetermine the employer's chargeability for benefits paid to the worker as prescribed in A.R.S. § 23-727.
- F. For the purpose of applying A.R.S. § 23-727(F):
1. A retirement pay plan is a plan provided by either a non-governmental individual employer or group of employers in a collective retirement plan, and
 2. A collective retirement plan is a group of employers and workers in an industry that pay into 1 fund for the workers' retirement.

Historical Note

Former Regulation 30-9; Amended effective March 26, 1979 (Supp. 79-2). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-1709. Part-time Employment -- Employer Responsibilities

- A. As used in A.R.S. § 23-727(E) and A.A.C. R6-3-1708(E), the phrase "to the same extent," means:
 1. When applied to an employee who is not paid by commissions, that the weekly wages earned in part-time employment during the weeks of a calendar quarter in which benefits are claimed are not less than 90% of the weekly wages earned in part-time employment during the last calendar quarter of the base period; and
 2. When applied to an employee paid on a commission basis, that:
 - a. The employer-employee relationship has not terminated; and
 - b. The employment opportunity the employer has made available to the employee, during the calendar quarter in which the employee is claiming benefits,

is no less than the opportunity made available during the last calendar quarter of the base period.

- B. The Department may require an employer to submit proof that the employer is offering employment to the same extent, by sending the employer a written request for such information.
- C. Within 10 work days of the mailing date of the request, the employer shall send the Department:
 1. A week-by-week record of wages the employee has earned for part-time employment during the last 13 weeks of the base period; or
 2. A written certification that the employer-employee relationship of an employee paid on a commission basis has not terminated and that the employer continues to provide such employee with an employment opportunity which is no less than the employer provided during the last quarter of the base period.

Historical Note

Former Regulation 30-12. Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1710. Notification and review of charges to experience rating accounts

Section 23-727 of the Employment Security Law of Arizona requires the Department to maintain an account for each employer and to make appropriate charges and credits to the account. Section 23-732 of the Employment Security Law of Arizona provides for annual notice to the employer of his contribution rate, the procedure for review or redetermination, and for quarterly notification of benefits charged.

In conformity with the above Sections, the Department of Economic Security prescribes:

- A. Quarterly notification to an employer of benefits charged to his account shall be mailed to his last known address following the end of each calendar quarter. The notification shall set forth the name, social security account number, and the amount charged for each individual whose benefits are charged against the employer's account. The charges set forth in the notification shall become conclusive and binding upon the employer for all purposes unless within 15 days after notification was mailed to him the employer files an application for redetermination.
- B. If written request for redetermination of the charging of benefits to an employer's account is filed and is timely, the Department shall grant such request if the notice of benefit charges:
 1. Includes an error in the amount or in the identity of the claimant or the employer; or
 2. Includes charges for any benefits which are not chargeable under the provisions of regulation R6-3-1708 and the Department failed to give any required notification to the employer of the claim filing, determination, or decision on which the charges are based.

Historical Note

Former Regulation 40-8; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5).

R6-3-1711. Computation of experience rates

- A. An employer whose account has been chargeable for benefits throughout the twelve month period immediately preceding the July 1 computation date shall receive a computed rate for the following calendar year as prescribed in A.R.S. § 23-730.
- B. The term chargeable means that an employer has been subject to potential charges resulting from benefit payments that could have been made if claims were filed. For purposes of estab-

lishing the rate for new accounts, the date upon which an employer's account becomes chargeable for benefit payments is either the first day of the second quarter following the end of the first quarter of wage payments after coverage began, or on the first day of the calendar quarter after the quarter in which the employer became liable under A.R.S. § 23-613, whichever is later.

- C. The amount of contributions used to compute an employer's reserve ratio includes all contributions paid on or before July 31 or the next business day if July 31 falls on a Saturday, Sunday, or a legal holiday. Contributions shall not include payments of interest or penalties, or payments of contributions paid on or before July 31 and subsequently refunded on or before October 31.
- D. The amount of benefit charges to compute an employer's reserve ratio includes the employer's share of the amount of all checks issued on or before June 30 for the payment of benefit claims determined chargeable against the employer's account. Credits resulting from erroneous payment of benefits shall be reflected in the quarter in which the error was established pursuant to A.C.R.R. R6-3-1708(B).
- E. Average annual payroll used to compute an employer's reserve ratio includes the average of the taxable wages reported on or before the following October 31, or estimates and assessments made for the required quarterly reports through the period ending June 30.
- F. Estimates of taxable payroll as provided in A.R.S. § 23-731 for any quarter in which a required report has not been filed shall be based on the best information available to the Department or the highest amount of taxable payroll reported on the last three quarterly reports submitted immediately preceding the delinquent quarter(s). However, when no reports have been filed or when the reports submitted reflect no wages paid, the estimate(s) shall be based on the average of taxable wages for all experience rated employers for the prior fiscal year.
- G. Notwithstanding subsections (A) and (B), an employer who succeeds to or acquires a business or a distinct and severable portion of a business between July 1 and December 31 of a calendar year, shall have the experience rating account of the predecessor used in computing its rate for the following calendar year if either the predecessor or successor informs the Department of the acquisition prior to the date its rate becomes final for the calendar year following the year of acquisition. If only a portion of the business was acquired, the provisions of A.R.S. § 23-733(B) and A.C.R.R. R6-3-1713(D) must also be met.

Historical Note

Former Regulation 40-7; Former Section R6-3-1711 repealed, new Section R6-3-1711 adopted effective October 24, 1983 (Supp. 83-5). Correction, subsection (G), reference to A.C.R.R. R6-3-1713(B) should read A.C.R.R. R6-3-1713(D) (Supp. 84-2).

R6-3-1712. Joint, Multiple, and Combined Employer Experience Rating Accounts

- A. Joint experience rating accounts
 1. Joint experience rating account means a combined experience rating account established for 2 or more employers owned or controlled directly or indirectly by the same interests.
 2. Employers may request establishment of a joint experience rating account by sending the Department a written request before March 1 of the calendar year for which the joint experience rating account is sought. The request shall identify all employers to be included as members in the joint experience rating account and provide documen-

tation that the members are owned or controlled directly or indirectly by the same interests.

3. The Department shall approve a request for a joint experience rating account when:
 - a. The request is received before March 1 of the calendar year for which the joint experience rating account is sought;
 - b. Each member identified in the request is owned or controlled directly or indirectly by the same interests; and
 - c. The experience rating account of each member has been chargeable with benefits throughout the 12 consecutive calendar months ending on June 30 of the year preceding the calendar year for which the joint experience rating account is requested.
4. The average annual payroll for a joint experience rating account shall be the sum of the average annual payrolls of the members of such account.
5. A member of a joint experience rating account may withdraw from a joint account as of January 1 of any year after participating in the joint account for at least 2 calendar years. To withdraw, the member shall file a written request for withdrawal before March 1 of the calendar year for which the withdrawal is sought. Upon approval of the withdrawal:
 - a. The Department shall give the withdrawing member the member's portion of the joint experience rating account and a contribution rate computed on the member's separate experience, and
 - b. The Department shall give the remaining members a contribution rate computed on the experience of the remaining members.
6. The Department shall remove a member from a joint experience rating account when the Department determines that common ownership or control has ceased to exist between 2 or more members of a joint account:
 - a. The Department shall give the removed member, as of the date of the change of common ownership or control, a separate experience rating account and a contribution rate computed on the removed member's portion of the joint experience rating account;
 - b. The remaining members shall:
 - i. Retain the contribution rate of the joint experience rating account for the remainder of the calendar year in which the change occurred; and
 - ii. Receive a contribution rate for the following calendar year computed on the basis of the experience of the remaining members.

B. Multiple experience rating accounts.

1. Multiple experience rating account means an experience rating account established for an employer which permits separate employer account numbers and quarterly reports for separately identified operations of the employer.
2. The Department may approve a request for a multiple experience rating account effective with the year in which the employer submits a written application for such account.
3. The notices of benefit charges sent to the employer shall identify charges to each operation, but the contribution rate for the employer shall be a single rate based on the combined experience of all operations.
4. Upon written request of the employer, the Department shall close 1 or more separate accounts in a multiple experience rating account and transfer the experience to a

remaining account of the employer as of the beginning of the calendar year of the written request.

5. When an operation which is a part of a multiple account is sold or transferred, the Department shall transfer the experience rating reserve if the provisions of A.R.S. § 23-733 and A.A.C. R6-3-1713 are met.

C. Combined experience rating accounts

1. Combines experience rating account means an experience rating account established for an employer which requires separate employer account numbers, quarterly reports, and charge notices for separately identified operations that meet more than 1 of the coverage provisions described below, except that a combined account will not be established for agricultural employers if the employees covered under general coverage are in the agricultural industry. The contribution rate for the employer is a single rate based on the combined experience of all operations.
 - a. General coverage means coverage on the basis of employment of 1 or more individuals for 20 weeks in a calendar year, payment of \$1500 or more wages in a calendar quarter, successorship, common ownership or control, voluntary election, or coverage under the Federal Unemployment Tax Act.
 - b. Agricultural coverage means coverage on the basis of employment of 10 or more individuals in agricultural labor for 20 weeks in a calendar year or payment of cash wages of \$20,000 or more in a calendar quarter, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act.
 - c. Domestic coverage means coverage on the basis of payment of cash wages of \$1000 or more in a calendar quarter for domestic service, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act.
2. The Department shall establish a combined experience rating account only on its own initiative for the reasons set forth in this Article.
3. The Department shall not permit the members to voluntarily withdraw from a combined account.
4. The Department shall remove a member of a combined account when a change of ownership occurs as provided in R6-3-1713 and A.R.S. § 23-733.
5. If the operation of a member of a combined experience rating account qualifies for termination under the provisions of A.R.S. § 23-725, the Department shall terminate the experience of the member's account and assign a rate for the combined experience rating account of the remaining members for the next calendar year, based on the remaining members' own experience.

Historical Note

Former Regulation 40-9; Amended effective March 28, 1978 (Supp. 78-2). Amended by deleting language prior to subsection (A) and amending subsection (A), paragraph (2) (Supp. 80-4). Correction, Historical Note for Supp. 80-4 should read effective July 9, 1980 (Supp. 80-6). Amended effective February 7, 1984 (Supp. 84-1). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1713. Business transfers

A. General

1. The manner in which an organization, trade or business is acquired or succeeded to is not determinative of successor status. A business may be acquired or succeeded to "in any manner" which includes, but is not limited to, acquisition by purchase, lease, repossession, bankruptcy

proceedings, default, or through the transfer of a third party.

2. An "organization, trade or business" as used in A.R.S. §§ 23-613 and 23-733(A) through (D) is acquired if the factors of an employer's organization, trade or business succeeded to are sufficient to constitute an entire existing operating business unit as distinguished from the acquisition of merely dry assets from which a new business may be built. The question of whether an organization, trade or business is acquired is determined from all the factors of the particular case. Among the factors to be considered are:
 - a. The place of business
 - b. The trade name
 - c. The staff of employees
 - d. The customers
 - e. The goodwill
 - f. The inventory
 - g. The accounts receivable/accounts payable
 - h. The tools and fixtures
 - i. Other assets.
3. For the purpose of determining successorship status under A.R.S. §§ 23-613(A)(3) and 23-733(A) or (B), an individual or employing unit who in any manner acquires or succeeds to all or a part of an organization, trade or business from an employer as defined in A.R.S. § 23-613 shall be deemed the successor employer provided the organization, trade or business is continued. Continuation of the organization, trade or business shall be presumed if the normal business activity was not interrupted for more than 30 days before or after the date of transfer. However, the interruption of business activity of a seasonal enterprise during its off season shall not be considered an interruption of normal business activity.

B. Special provisions

1. An individual or employing unit shall be determined a successor under the provisions of A.R.S. § 23-733(A) and receive the experience rating account of the predecessor when the organization, trade or business acquired or succeeded to constitutes all of the predecessor's employment generating enterprise upon which the experience rating account was primarily established without regard to those factors retained by the predecessor which represent:
 - a. Exempt employment; or
 - b. Employment necessary for the liquidation of the trade or business; or
 - c. Employment arising from the activities establishing another trade or business; or
 - d. Employment as a result of an organization, trade or business succeeded to or acquired within two calendar days of the date of transfer of the enterprise upon which the experience rating account is based.
2. When the members of a partnership are changed, the new partnership will be treated as the same employing unit if more than 50% of the ownership existing prior to the change is retained. However, when a partnership dissolves and each partner takes a separately identifiable portion of the business which by itself would be an employer as provided in A.R.S. § 23-613, the reserve shall be proportionately transferred to each former partner provided the requirements of A.R.S. § 23-733(B) are met.
3. An individual or employing unit who acquires or succeeds to the organization, trade or business for which a separate account in a combined experience rating account is required under the provisions of R6-3-1301(C) shall

receive the entire experience rating account for the operation transferred except that the experience attributable to domestic employment shall not be transferred.

C. Transfer of entire business

1. When the Department determines that an individual or employing unit is a successor and shall inherit the experience rating account of the predecessor as provided in A.R.S. § 23-733(A), the determination shall be subject to the same provisions as determinations made in accordance with A.R.S. § 23-724.
2. When the experience rating account is transferred to the successor, the successor's account shall be charged with benefits determined chargeable as a result of the employment in the organization, trade or business acquired, and the successor's contribution rate shall be determined in accordance with A.R.S. § 23-733(C) for the calendar year beginning on the date of acquisition.

D. Transfer of severable portion

1. The successor to a part of an organization, trade or business shall be determined a successor employer as defined in A.R.S. § 23-613(A) and subsections (A) and (B) above provided the portion acquired either during the calendar year in which the acquisition occurred or in the preceding calendar year had sufficient employment or wage history as specified in A.R.S. § 23-613 to be an employer without the remaining portion(s).
2. Application and required information
 - a. The reserve account of a distinct and severable portion of an organization, trade or business shall be transferred to an employing unit which has acquired such portion only if the successor employing unit:
 - i. Files with the Department a written application, approved in writing by the predecessor, within 180 days after the date of acquisition, unless the time is extended for good cause shown; and
 - ii. Submits necessary information establishing the separate identity of the account within 30 days after the Department's request is mailed to it unless the time is extended for good cause shown; and
 - iii. Continues to operate the acquired portion of the business.
 - b. "Necessary information establishing the separate identity of the account" includes but is not limited to:
 - i. Written agreement to the transfer by the predecessor; and
 - ii. The date the portion of the business was acquired; and
 - iii. The date employees were first hired for both the retained and transferred portions of the predecessor's business; and
 - iv. The amount of quarterly taxable wages attributable to each of the retained and transferred portions beginning with the 12th calendar quarter preceding the date of acquisition or beginning with the date employees were first hired if a portion of the business existed for less than 12 calendar quarters.
3. Portion of reserve and payrolls transferred. When the requirements for transfer have been met, there shall be transferred to the successor's account as of the date of acquisition a percentage of the predecessor's experience rating account. The percentage is arrived at by dividing the taxable payroll of the transferred portion by the predecessor's taxable payroll for the period beginning with the

first day of the 12th calendar quarter preceding the quarter of the transfer, or the date employees were first hired for any portion of the business if subsequent to the first day of the 12th calendar quarter.

4. Benefit charges. After the date of the transfer, benefits paid to the predecessor's former employees, based on wages paid prior to the transfer date, shall be charged to both the predecessor's and successor's experience rating accounts in the same proportion as the percentage of the predecessor's experience rating account allocated to each at the date of transfer.

E. Liability for predecessor's debt

1. Notwithstanding subsections (A) and (B) above, when an individual or employing unit in any manner succeeds to or acquires the organization, trade or business, or substantially all of the assets of an employer as defined in A.R.S. § 23-613, the successor shall be equally liable along with the predecessor for the contributions, interest and penalties due or accrued and unpaid by the predecessor as provided in A.R.S. § 23-733(D).
2. When the Department determines an individual or employing unit is equally liable for the unpaid contributions, interest and penalties of another as provided in A.R.S. § 23-733(D), the determination shall be subject to the same provisions as determinations made in accordance with A.R.S. § 23-724. The Department shall furnish the successor with a written statement of the amount of contributions, interest, and penalties due and unpaid by the predecessor unless the liability is waived under the provisions of A.R.S. § 23-733(D).
3. "Reasonable value" as used in A.R.S. § 23-733(D) means the price that would be arrived at in good faith negotiations between a knowledgeable and willing buyer and a knowledgeable and willing seller.
4. Waiver of the successor's liability for the predecessor's debt as provided in A.R.S. § 23-733(D) shall not be granted when any ownership interest of the predecessor's business is found present in the ownership of the successor or when there is a reasonable basis for the successor to believe that there may be amounts due or accrued and unpaid by the predecessor employer.

Historical Note

Former Regulation 40-10; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Former Section R6-3-1713 repealed, new Section R6-3-1713 adopted effective December 2, 1983 (Supp. 83-6).

R6-3-1714. Repealed

Historical Note

Former Regulation 40-11; Repealed effective August 23, 1984 (Supp. 84-4).

R6-3-1715. Computation of adjusted contribution rates

- A.** The fund means the Unemployment Compensation Trust Fund which shall include:
1. Funds which have been credited to the Trust Fund by the United States Treasury under the Employment Security Administrative Financing Act of 1954 (Reed Bill) on or before July 31 and which have not been appropriated by the Legislature.
 2. The amount of contribution collections from experience rated employers consisting of all amounts deposited in

the bank on or before July 31 for calendar quarters ending the preceding June 30.

3. The amount of contribution collections from experience rated employers deposited in the bank after July 31 which were received or postmarked on or before July 31 and which apply to calendar quarters ending the preceding June 30, but shall not include the amount of contribution credit balances (accounts payable) not refunded to the employer for calendar quarters ending the preceding June 30 or not used by the employer on or before July 31 for the payment of contributions, interest or penalty due.
 4. The amount of payments in lieu of contributions consisting of all amounts deposited in the bank on or before August 31 for reimbursing benefits paid in calendar quarters ending the preceding June 30.
 5. The amount of payments in lieu of contributions deposited in the bank after August 31 which were received or postmarked on or before August 31 and which apply to calendar quarters ending the preceding June 30, but shall not include the amount of contribution credit balances (accounts payable) not refunded to the employer for calendar quarters ending the preceding June 30 or not used by the employer on or before August 31 for the reimbursement of benefits paid, interest or penalty due.
 6. The amount on deposit with the State Treasurer and/or the bank for payment of unemployment compensation benefits, for which benefit checks have not been issued on or before July 31.
 7. The interest earned on monies in the fund during the twelve-month period immediately preceding the computation date and credited to the fund by the United States Treasury on or before October 31 following the computation date.
- B.** Total taxable payrolls of all employers during the twelve-month period immediately preceding the July 1 computation date shall be used in computing adjusted contribution rates for the next calendar year. If an employer's entire taxable payroll for the twelve-month period ending June 30 is reported on or before the following October 31, the reported payroll shall be used. If an employer's entire taxable payroll for the twelve-month period ending June 30 is not reported on or before the following October 31, the estimate made in accordance with A.R.S. § 23-731 and R6-3-1711(F) shall be used.
- C.** Total taxable payrolls for the preceding twelve-month period ending June 30 of employers whose accounts are inactive on October 31 of the year preceding the calendar year for which the adjusted rates are applicable shall be included with total taxable payrolls in the new employer rate group of two and seven-tenths percent.
- D.** Method of computation:
1. Compute the fund ratio by dividing the total assets of the fund by the total taxable payrolls.
 2. Determine the required income rate using the table contained in A.R.S. § 23-730(3).
 3. Compute the estimated net required tax yield by multiplying the total taxable payrolls by the required income rate and subtracting the interest earned as defined by A.R.S. § 23-730(3).
 4. Compute the estimated yield from unadjusted contribution rates by:
 - a. Multiplying the taxable payrolls for employers ineligible for a reserve ratio by the new employer contribution rate of 2.7 percent.
 - b. Multiplying the taxable payrolls for inactive employers by the new employer contribution rate of 2.7 percent.

- c. For all other employers, multiplying the unadjusted contribution rate for each reserve ratio defined in A.R.S. §§ 23-730(1) and 23-730(2) by the taxable payrolls for all employers having that reserve ratio.
- d. Summing the results of steps (4)(a), (4)(b), and (4)(c)
5. Compute the unadjustable yield by:
 - a. Summing the estimated yields for employers ineligible for a reserve ratio and inactive employers.
 - b. If the estimated yield exceeds the estimated required tax yield, add the estimated yields for employers with a negative reserve balance and employers with a reserve ratio of 13 percent or more to the sum determined in (5)(a).
6. Compute the adjustment factor by dividing in the following manner:

the estimated required tax yield, less the unadjustable yield Π the estimated yield derived from unadjusted contribution rates, less the unadjustable yield.
7. Compute the adjusted contribution rates by multiplying the unadjusted contribution rates for each reserve ratio subject to adjustment by the adjustment factor and round the result to the nearest .01 percent (or down if there is no nearest .01 percent).
8. Compute the estimated average tax rate by dividing the net required yield by the taxable payrolls and round to the nearest .01 percent.

Historical Note

Former Regulation 40-12; Amended effective March 29, 1978 (Supp. 78-2). Amended effective November 15, 1978 (Supp. 78-6). Amended effective March 5, 1982 (Supp. 82-2). Amended effective December 23, 1985 (Supp. 85-6).

R6-3-1716. Voluntary contributions

Section 23-726 of the Employment Security Law of Arizona provides for an employer to make voluntary payments in addition to required contributions, which are credited to his account and included in the computation of the employer's experience rate.

In conformity with this Section, the Department of Economic Security prescribes:

- A. Separate accounting records of voluntary contributions shall be established for each employer making such contributions. Money so paid and credited may not be credited to the separate account of employer contributions required on wages paid. Voluntary contributions shall be in any amount desired by the employer and need not bear any relationship to wages paid. When such voluntary payments have been received by the Department and credited in the voluntary contribution account of the employer, they may not be returned to the employer and shall be deposited in the trust fund of the Department.
- B. The Department shall supply on request of the employer, received before January 31 of any calendar year, information as to the effect of any voluntary contribution on the yearly contribution rate commencing January 1 of such calendar year. Any voluntary contribution received by the Department post marked on or before January 31 of any calendar year shall be used in computing the rate for that calendar year.

Historical Note

Former Regulation 40-13.

R6-3-1717. Special Provisions for Reimbursement Employers

- A. Reimbursement for benefits paid. The amount of benefits chargeable against or reimbursable from each base-period employer shall bear the same ratio to the total benefits paid to

an individual as the base-period wages paid to the individual by the employer bear to the total amount of base-period wages paid to the individual by all his base-period employers. The provisions of Sections 23-727, 23-773, and 23-777 which relieve an employer's account of charges for benefit payments do not apply to reimbursement employers. A reimbursement employer shall reimburse the Department for its proportionate share of all regular benefits and one-half of its proportionate share of all extended benefits paid which were based upon wages paid during the effective period of the employer's election to make payments in lieu of contributions; chargeable benefits paid based upon wages paid during a period when no such election is in effect shall be charged to the employer's experience rating account.

B. Acquisition of a business

1. When a regular employer acquires the entire business of a reimbursement employer, all benefits paid which were based upon wages paid after the date of acquisition shall be charged to the successor's experience rating account. Benefits paid which were based upon wages paid prior to the date of acquisition shall be reimbursed to the Department by the predecessor.
 2. When a reimbursement employer acquires the entire business of a reimbursement employer, all benefits paid which were based upon wages paid after the date of acquisition shall be reimbursed to the Department by the successor. Benefits paid which were based upon wages paid prior to the date of acquisition shall be reimbursed to the Department by the predecessor.
 3. When a reimbursement employer acquires the entire business of a regular employer, all benefits paid which were based upon wages paid after the date of acquisition shall be reimbursed to the Department by the successor. Benefits paid which were based upon wages paid prior to the date of acquisition shall be charged to the predecessor's experience rating account.
 4. When an employing unit eligible for reimbursement option reorganizes or changes ownership other than in a manner as provided for in paragraph (1), (2) or (3) above, the option of the predecessor shall be binding upon the successor.
 5. A successor employer shall be liable for any unpaid amounts due from a predecessor reimbursement employer when the total business is acquired in the same manner and to the same extent as a successor employer is liable for unpaid contributions, penalties, and interest of a predecessor.
- #### C. Reimbursement required when a request for redetermination is pending.
- When a reimbursement employer files a timely application for redetermination of payments due and no redetermination has been received on or before the 30th day after the billing for that quarter(s) was mailed by the Department, the employer shall pay the bill before the delinquent date, and at the same time may give notice to the Department that all or part of the payment is made under protest.
- #### D. Group accounts
1. Group accounts shall become effective only at the beginning of a calendar year, and applications for a group account shall be made no later than 30 days prior to the effective date of such account.
 2. Employers forming a group account shall remain reimbursement employers for not less than three years from the effective date of the group account without regard to the date they originally became reimbursement employers. A group account shall be terminated only at the end of a calendar year by written application made not later

than 30 days prior to the date the account is to be terminated, provided the group account has been in effect for three calendar years.

3. A new employer may be added to a group account only at the beginning of a calendar year and only by making written application not later than 30 days prior to the beginning of the calendar year for which the application is to be effective.
 4. A member may withdraw from a group account only at the end of a calendar year and only by making written application to do so not later than 30 days prior to the effective date of the withdrawal, provided the group account will have been in existence for at least three calendar years as of the effective date of the withdrawal.
 5. The employees and wages paid in each unit of a group account shall be separately identified on the quarterly wage report submitted for the group.
- E. Effective date of election for payment in lieu of contributions**
1. When a nonprofit organization has been granted exempt status by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code and, after providing the Department with a copy of the exempt determination, is determined to be a liable employer according to A.R.S. § 23-613(A)(2)(c), the effective date of a timely election to make payment in lieu of contributions shall be the effective date of the exempt status as determined by the Internal Revenue Service or the effective date of coverage, whichever is later.
 2. When a nonprofit organization previously determined to be a liable employer on a basis other than A.R.S. § 23-613(A)(2)(c), provides the Department with a copy of a determination issued by the Internal Revenue Service granting exempt status to the organization under Section 501(c)(3) of the Internal Revenue Code, which eliminates the liability of the organization under the Employment Security Law, the liability of the employing unit shall be removed effective with the effective date of the exempt status as determined by the Internal Revenue Service. The employing unit shall be eligible for refund or adjustment within the limitations provided by A.R.S. § 23-742.
 3. When a nonprofit organization previously determined to be a liable employer on a basis other than A.R.S. § 23-613(A)(2)(c), provides the Department a copy of a determination issued by the Internal Revenue Service granting exempt status to the organization under Section 501(c)(3) of the Internal Revenue Code within 90 days of the date issued, and remains a liable employer according to A.R.S. § 23-613(A)(2)(c), the effective date of a timely election to make payment in lieu of contributions shall be the effective date of exempt status as determined by the Internal Revenue Service. If, however, such an organization does not provide the Department a copy of the exempt determination within 90 days, the effective date of a timely election to make payment in lieu of contributions shall be the first day of the calendar quarter in which the copy of the exempt determination is received by the Department. Payment of contributions because evidence of exempt status had not been furnished to the Department by the organization shall not be considered due to the fault or mistake of the Department.

Historical Note

Former Regulation 40-15; Amended effective January 10, 1977 (Supp. 77-1). Amended subsection (E) effective August 28, 1980 (Supp. 80-4). Typographical correction to change "on" to "or" as adopted by the Department (Supp. 94-4).

R6-3-1718. Employer Refunds

- A.** When a contribution overpayment has been established within the statutory period provided by Section 23-742, the Department may credit the employing unit's account or, in its discretion, refund the overpayment provided the employing unit has no report delinquency or balance due on its account.
- B.** When an overpayment to a claimant has been established as provided in A.R.S. § 23-742, and a reimbursing employer has made payment in lieu of contributions for the benefits overpaid, the Department shall give the employer credit against the employer's next quarterly statement of account of an amount not to exceed the amount recovered by the fund through offset or repayment. If the benefit overpayment was attributable to Department fault, mistake, or omission, the Department shall give the reimbursing employer a credit for the amount of the benefit overpayment, regardless of whether the overpayment has been repaid. The Department shall allow a reimbursing employer a refund of any credit balance remaining in the employer's account after the Department determines that there will be no further charges to the account.
- C.** The Department shall issue a warrant drawn on the Unemployment Compensation Fund -- Clearing Account for any employer refund.

Historical Note

Former Regulation 40-16; Amended effective March 11, 1977 (Supp. 77-2). Amended subsection (A) effective June 17, 1985 (Supp. 85-3). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1719. Repealed

Historical Note

Adopted effective October 20, 1978 (Supp. 78-5). Repealed effective December 2, 1983 (Supp. 83-6).

R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers

- A.** Direct sellers. This subsection governs the determination of whether employment is exempt under A.R.S. § 23-617(22).
 1. "Consumer goods" means tangible personal property normally used for personal, family, or household purposes, including property meant to be attached to or installed in any real property, regardless of whether such tangible property is actually attached or installed. Consumer goods do not include such things as:
 - a. Services,
 - b. Intangible property,
 - c. Real property, or
 - d. Goods held for resale or investment purposes.
 2. When the solicitation or sale includes services or merchandise not within the definition of consumer goods, the exemption shall be allowed only if the services or merchandise not within the definition of consumer goods are incidental to the consumer goods and do not equal 50% or more of the total purchase price.
 3. Compensation received by direct sellers may be "over-rides" (commissions paid to direct sellers based on sales of other direct sellers) or "profits" (the difference between the price the direct seller pays for consumer goods purchased and the resale price the seller charges the consumer for the goods) as well as commissions.
 4. "Primarily resulting" means that substantially all (80% or more) of the solicitations or sales of consumer goods are made by the direct seller "in person", "in the home" of the prospective consumer. Boiler room telephone-type operations will not fall within this exemption as they are

not “in person” nor are they solicitations or sales consummated “in the home”.

B. Income Tax Preparers. This subsection governs the determination of whether employment is exempt under A.R.S. § 23-617(23).

1. “Tax returns” means returns required to be filed under federal or state income tax laws.
2. “Related schedules and documents” means schedules and documents which accompany the tax returns, any forms prepared by the tax preparer in lieu of regular income tax forms, and information documents prepared from client interviews. Related schedules and documents do not include accounting records or financial statements.
3. “Preparation” of tax returns means obtaining necessary information from the taxpayer, deciding which tax rules apply and how, computing the tax, or completing the necessary forms. To qualify under the exemption, a tax preparer need not actually fill out or review the forms. However, preparation does not include the mere typing, reproducing, or reviewing of the forms.
4. The services of the tax preparer will not be exempt if such individual doing the work is subject to any controls, whether exercised or not, other than those required by the IRS. The IRS exercises control over tax preparers by imposing a penalty if the tax preparer:
 - a. Does not sign the return (manual signature).
 - b. Does not furnish an employer’s ID number and a Social Security Number.
 - c. Does not show the business address where the return was completed.
 - d. Does not keep copies or records of a return for three years available for inspection by the IRS.
 - e. Does not provide a copy of the complete return to the taxpayer.
 - f. Negligently or intentionally disregards the rules and regulations for preparing tax returns.
 - g. Willfully understates tax liability (preparer must ask reasonable questions when the information furnished by the taxpayer seems to be incomplete or incorrect, and some deductions require specific documentation which a preparer must be satisfied actually exists).
 - h. Endorses a refund check (excepting bank tax preparers).
 - i. Does not file an annual information report, Form 5717, by July 31 of each year.

Historical Note

Adopted effective November 15, 1978 (Supp. 78-6).
Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1721. Liability determinations; review; finality

- A.** If an employer alleges a reconsider determination issued in accordance with subsection (F) of A.R.S. § 23-724, or subsection (A) of A.R.S. § 23-732, is defective and so specifies in writing within the appeal period specified by law, the Department shall review its reconsidered determination for completeness as required by A.R.S. § 23-724(F), considering any alleged defects identified in writing by the employer within the appeal period.
- B.** Any defects found may be cured by issuing a corrected reconsidered determination and stating therein that all time periods applicable to the determination were suspended from the date of the original reconsidered determination to the date of the corrected reconsidered determination.

- C.** Any further defect alleged in the corrected reconsidered determination will be handled in the manner so specified in this regulation.
- D.** If the allegation of a defect in the reconsidered determination is not submitted within the period for appeal, an examination of the reconsidered determination reveals no defect of consequence, and the employer did not file a timely petition for hearing or review, the employer shall be notified in writing of the untimeliness of the allegation of defect, and that the reconsidered determination has become final. If, however, the employer had submitted timely petition for hearing or review, the employer shall be notified of the untimeliness of his allegation of defect, and that the matter is now with the appeals board for consideration of his petition for hearing or review.
- E.** If the allegation of defect in the reconsidered determination is not submitted within the period for the appeal, and upon examination of the reconsidered determination a defect of consequence is found to exist, a corrected reconsidered determination shall be issued which will include a statement that all time periods applicable to the determination were suspended from the date of the original reconsidered determination to the date of the corrected reconsidered determination.
- F.** If the allegation of defect in the reconsidered determination is submitted timely, but upon review defect is not found by the Department to exist, the employer shall be notified in writing that the reconsidered determination is considered adequate, and that the matter shall become final unless he notifies the Department in writing within 15 days that he wishes his timely allegation of defect to be considered a petition for hearing or review.

Historical Note

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5).

R6-3-1722. Casual labor

- A.** “Casual labor” means service not in the course of the employing unit’s trade or business performed by an employee in any calendar quarter in which:
 1. Cash remuneration paid for such service is less than \$50; and
 2. The services are performed by an individual who is not regularly employed by the employing unit to perform such services.
- B.** “Regularly employed by an employing unit” means that an employee performed similar services for the employing unit for some portion of each of 24 days during the calendar quarter in question or the preceding calendar quarter.
- C.** “Service not in the course of the employing unit’s trade or business” means service that does not directly promote or advance the trade or business of the employing unit. This term does not apply to domestic services in the private home of the employer or services performed for a corporation.

Historical Note

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New rule adopted effective November 6, 1979 (Supp. 79-6). Amended effective December 17, 1981 (Supp. 81-6). Former Section R6-3-1722 repealed, new Section R6-3-1722 adopted effective March 16, 1988 (Supp. 88-1).

R6-3-1723. Employee defined

- A.** “Employee” means any individual who performs services for an employing unit, and who is subject to the direction, rule or

control of the employing unit as to both the method of performing or executing the services and the result to be effected or accomplished. Whether an individual is an employee under this definition shall be determined by the preponderance of the evidence.

1. "Control" as used in A.R.S. § 23-613.01, includes the right to control as well as control in fact.
 2. "Method" is defined as the way, procedure or process for doing something; the means used in attaining a result as distinguished from the result itself.
- B.** "Employee" as defined in subsection (A) does not include:
1. An individual who performs services for an employing unit in a capacity as an independent contractor, independent business person, independent agent, or independent consultant, or in a capacity characteristic of an independent profession, trade, skill or occupation. The existence of independence shall be determined by the preponderance of the evidence.
 2. An individual subject to the direction, rule, control or subject to the right of direction, rule or control of an employing unit "... solely because of a provision of law regulating the organization, trade or business of the employing unit". This paragraph is applicable in all cases in which the individual performing services is subject to the control of the employing unit only to the extent specifically required by a provision of law governing the organization, trade or business of the employing unit.
 - a. "Solely" means, but is not limited to: Only, alone, exclusively, without other.
 - b. "Provision of law" includes, but is not limited to: statutes, regulations, licensing regulations, and federal and state mandates.
 - c. The designation of an individual as an employee, servant or agent of the employing unit for purposes of the provision of law is not determinative of the status of the individual for unemployment insurance purposes. The applicability of paragraph (2) of this subsection shall be determined in the same manner as if no such designated reference had been made.
- C.** The following services are exempt employment under this Chapter, unless there is evidence of direction, rule or control sufficient to satisfy the definition of an employee under subsection (A) of this Section, which is distinct from any evidence of direction, rule or control related to or associated with establishing the nature or circumstances of the services considered pursuant to this subsection:
1. Services by an individual for an employing unit which are not a part or process of the organization, trade or business of the employing unit, and the individual is not treated by the employing unit in a manner generally characteristic of the treatment of employees.
 - a. Services by an individual not treated by the employing unit in a manner generally characteristic of the treatment of employees means the individual performing the services is not treated by the employing unit in substantially the same manner as employees of that employing unit.
 - b. The words "part" and "process" are not synonymous. If the individual performs services which are either a part of or process in the organization, trade or business, the conditions of this paragraph are not met and the services cannot be exempt under this paragraph. "Process" refers to those services which are directly responsible for carrying out the fundamental purpose or purposes for which the organization, trade or business exists; e.g., painting and repairing automobile bodies in an automobile body paint and repair shop. "Part" refers to any other services which are essential to the operation or maintenance of the organization, trade or business; e.g., routine cleaning of premises and maintenance of tools, equipment and building. In addition to services which are a part of or process in the organization, trade or business, there are those services which are for the purposes of the organization, trade or business but are merely ancillary or incidental and are not essential or necessary to the conduct of the organization, trade or business; e.g., landscaping area around the automobile body paint and repair shop.
 2. Services by an individual for an employing unit through isolated or occasional transactions, regardless of whether such services are a part or process of the organization, trade or business of the employing unit.
 - a. The phrase "isolated or occasional" has its commonly understood meaning. The intent of the relationship between the employing unit and the individual performing the services is to be considered with the intent of the parties being that it is on a permanent basis or for a long period; e.g., an individual employed who either quits or is discharged after a brief period of employment, would not be considered an isolated or occasional transaction regardless of how brief the period of employment may be.
 - b. An individual who performs services on less than thirteen days in a calendar quarter will be presumed to be performing isolated or occasional transactions. An individual who performs services on thirteen days or more in a calendar quarter will be presumed not to be performing isolated or occasional transactions. In all cases in which there is a standing or continuing arrangement with an individual to perform required services on either a regularly scheduled basis or on call as requested, it will be presumed the individual is not performing isolated or occasional transactions.
- D.** In determining whether an individual who performs services is an employee under the general definition of subsection (A), all material evidence pertaining to the relationship between the individual and the employing unit must be examined. Control as to the result is usually present in any type of contractual relationship, but it is the additional presence of control, as determined by such control factors as are identified in paragraph (2) of this subsection, over the method in which the services are performed, that may create an employment relationship.
1. The existence of control solely on the basis of the existence of the right to control may be established by such action as: reviewing written contracts between the individual and the employing unit; interviewing the individual or employing unit; obtaining statements of third parties; or examining regulatory statutes governing the organization, trade or business. In any event, the substance, and not merely the form of the relationship must be analyzed.
 2. The following are some common indicia of control over the method of performing or executing the services:
 - a. Authority over individual's assistants. Hiring, supervising, and payment of the individual's assistants by the employing unit generally shows control over the individuals on the job. Sometimes, one worker may

hire, supervise, and pay other workers. He may do so as the result of a contract in which he agrees to provide materials and labor and under which he is responsible only for the attainment of a result; in which case he may be independent. On the other hand, if he does so at the direction of the employing unit, he may be acting as an employee in the capacity of a foreman for or representative of the employer.

- b. Compliance with instructions. Control is present when the individual is required to comply with instructions about when, where and how he is to work. Some employees may work without receiving instructions because they are highly proficient in their line of work and can be trusted to work to the best of their abilities; however, the control factor is present if the employer has the right to instruct or direct. The instructions may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished.
- c. Oral or written reports. If regular oral or written reports bearing upon the method in which the services are performed must be submitted to the employing unit, it indicates control in that the worker is required to account for his actions. Periodic progress reports relating to the accomplishment of a specific result may not be indicative of control if, for example, the reports are used to establish entitlement to partial payment based upon percentage of completion. Completion of forms customarily used in the particular type of business activity, regardless of the relationship between the individual and the employing unit, may not constitute written reports for purposes of this factor; e.g., receipts to customers, invoices, etc.
- d. Place of work. Doing the work on the employing unit's premises is not control in itself; however, it does imply that the employer has control, especially when the work is of such a nature that it could be done elsewhere. A person working in the employer's place of business is physically within the employer's direction and supervision. The fact that work is done off the premises does indicate some freedom from control; however, it does not by itself mean that the worker is not an employee. In some occupations, the services are necessarily performed away from the premises of the employing unit. This is true, for example, of employees in the construction trades, or employees who must work over a fixed route, within a fixed territory, or at any outlying work station.
- e. Personal performance. If the services must be rendered personally it indicates that the employing unit is interested in the method as well as the result. The employing unit is interested not only in getting a desired result, but, also, in who does the job. Personal performance might not be indicative of control if the work is very highly specialized and the worker is hired on the basis of his professional reputation, as in the case of a consultant known in academic and professional circles to be an authority in the field. Lack of control may be indicated when an individual has the right to hire a substitute without the employing unit's knowledge or consent.
- f. Establishment of work sequence. If a person must perform services in the order of sequence set for him by the employing unit, it indicates the worker is sub-

ject to control as he is not free to follow his own pattern of work, but must follow the established routines and schedules of the employing unit. Often, because of the nature of an occupation, the employing unit does not set the order of the services, or sets them infrequently. It is sufficient to show control, however, if the employing unit retains the right to do so.

- g. Right to discharge. The right to discharge, as distinguished from the right to terminate a contract, is a very important factor indicating that the person possessing the right has control. The employing unit exercises control through the ever present threat of dismissal, which causes the worker to obey any instructions which may be given. The right of control is very strongly indicated if the worker may be terminated with little or no notice, without cause, or for failure to use specified methods, and if the worker does not make his services available to the public on a continuing basis. An independent worker, on the other hand, generally cannot be terminated as long as he produces an end result which measures up to his contract specifications. Many contracts provide for termination upon notice or for specified acts of nonperformance or default, and may not be indicative of the existence of the right to control. Sometimes, an employing unit's right to discharge is restricted because of a contract with a labor union or with other entities. Such a restriction does not detract from the existence of an employment relationship.
- h. Set hours of work. The establishment of set hours of work by the employing unit is a factor indicative of control. This condition bars the worker from being master of his own time, which is a right of the independent worker. Where fixed hours are not practical because of the nature of the occupation, a requirement that the worker work at certain times is an element of control.
- i. Training. Training of an individual by an experienced employee working with him, by required attendance at meetings, and by other methods, is a factor of control because it is an indication that the employer wants the services performed in a particular method or manner. This is especially true if the training is given periodically or at frequent intervals. An independent worker ordinarily uses his own methods and receives no training from the purchaser of his services.
- j. Amount of time. If the worker must devote his full time to the activity of the employing unit, the employing unit has control over the amount of time the worker spends working and, impliedly, restricts him from doing other gainful work. An independent worker, on the other hand, is free to work when and for whom he chooses. Full time does not necessarily mean an 8-hour day or a 5- or 6-day week. Its meaning may vary with the intent of the parties, the nature of the occupation and customs in the locality. These conditions should be considered in defining "full time". Full-time services may be required even though not specified in writing or orally. For example, a person may be required to produce a minimum volume of business which compels him to devote all of his working time to that business, or he may not

be permitted to work for anyone else, and to earn a living he necessarily must work full time.

- k. Tools and materials. The furnishing of tools, materials, etc. by the employing unit is indicative of control over the worker. When the worker furnishes the tools, materials, etc., it indicates a lack of control, but lack of control is not indicated if the individual provides tools or supplies customarily furnished by workers in the trade.
- l. Expense reimbursement. Payment by the employing unit of the worker's approved business and/or traveling expenses is a factor indicating control over the worker. Conversely, a lack of control is indicated when the worker is paid on a job basis and has to take care of all incidental expenses. Consideration must be given to the fact some independent professionals and consultants require payment of all expenses in addition to their fees.

E. Among the factors to be considered in addition to the factors of control, such as those identified in subsection (D), when determining if an individual performing services may be independent when paragraph (1) of subsection (B) is applicable, are:

1. Availability to public. The fact that an individual makes his services available to the general public on a continuing basis is usually indicative of independent status. An individual may offer his services to the public in a number of ways. For example, he may have his own office and assistants, he may display a sign in front of his home or office, he may hold a business license, he may be listed in a business directory or maintain a business listing in a telephone directory, he may advertise in a newspaper, trade journal, magazine, or he may simply make himself available through word of mouth, where it is customary in the trade or business.
2. Compensation on job basis. An employee is usually, but not always, paid by the hour, week or month; whereas, payment on a job basis is customary where the worker is independent. Payment by the job may include a predetermined lump sum which is computed by the number of hours required to do the job at a fixed rate per hour. Payment on a job basis may involve periodic partial payments based upon a percent of the total job price or the amount of the total job completed. The guarantee of a minimum salary or the granting of a drawing account at stated intervals, with no requirement for repayment of the excess over earnings, tends to indicate that existence of an employer-employee relationship.
3. Realization of profit or loss. An individual who is in a position to realize a profit or suffer a loss as a result of his services is generally independent, while the individual who is an employee is not in such a position. Opportunity for profit or loss may be established by one or more of a variety of circumstances; e.g.:
 - a. The individual has continuing and recurring significant liabilities or obligations in connection with the performance of the work involved, and success or failure depends, to an appreciable degree, on the relationship of receipts to expenditures.
 - b. The individual agrees to perform specific jobs for prices agreed upon in advance, and pays expenses incurred in connection with the work, such as wages, rents or other significant operating expenses.
4. Obligation. An employee usually has the right to end his relationship with his employer at any time he wishes without incurring liability, although he may be required

to provide notice of his termination for some period in advance of the termination. An independent worker usually agrees to complete a specific job. He is responsible for its satisfactory completion and would be legally obligated to make good for failure to complete the job, if legal relief were sought.

5. Significant investment. A significant investment by a person in facilities used by him in performing services for another tends to show an independent status. On the other hand, the furnishing of all necessary facilities by the employing unit tends to indicate the absence of an independent status on the part of the worker. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, etc., that are provided by employees as a common practice in their particular trade. If the worker makes a significant investment in facilities, such as a vehicle not reasonably suited to personal use, this is indicative of an independent relationship. A significant expenditure of time or money for an individual's education is not necessarily indicative of an independent relationship.
6. Simultaneous contracts. If an individual works for a number of persons or firms at the same time, it indicates an independent status because, in such cases, the worker is usually free from control by any of the firms. It is possible, however, that a person may work for a number of people or firms and still be an employee of one or all of them. The decisions reached on other pertinent factors should be considered when evaluating this factor.

F. Whether the preponderance of the evidence is being weighed to determine if the individual performing services for an employing unit is an employee under the general definition of employee contained in subsection (A), or may be independent when paragraph (1) of subsection (B) is applicable, the factors considered shall be weighed in accordance with their appropriate value to a correct determination of the relationship under the facts of the particular case. The weight to be given to a factor is not always constant. The degree of importance may vary, depending upon the occupation or work situation being considered and why the factor is present in the particular situation. Some factors may not apply to particular occupations or situation, while there may be other factors not specifically identified herein that should be considered.

G. An individual is an employee if he performs services which are subject to the Federal Unemployment Tax Act or performs services which are required by federal law to be covered by state law.

Historical Note

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective November 6, 1979 (Supp. 79-6). Amended subsection (B), paragraph (1) effective October 2, 1980 (Supp. 80-5). Amended effective March 5, 1982 (Supp. 82-2).

R6-3-1724. Repealed

Historical Note

Adopted effective September 23, 1980 (Supp. 80-5). Repealed effective December 20, 1995 (Supp. 95-4).

R6-3-1725. Licensed real estate, insurance, security and cemetery salesmen

A.R.S. § 23-617 exempts from employment services performed by individuals as insurance, real estate, security and cemetery salesmen, if compensated solely by way of commission.

1. Special compensation plans or agreements such as the following are not commissions: Stabilized earning programs, training allowances, sales incentive plans, payment of living expenses, and advances in excess of commissions earned when repayment is not required. Any such payment(s) nullifies the exemption for the calendar year in which the special payment(s) is made. Payment of an individual's business expenses is not considered a special compensation plan.
2. Special compensation payments do not include payments excluded from the definition of wages as defined in A.R.S. § 23-622(B).

Historical Note

Adopted effective September 23, 1980 (Supp. 80-5).

R6-3-1726. Tips as wages

- A. Any tip, gratuity or service charge received by or for an employee in the course of employment from persons other than the employing unit shall be considered wages if:
 1. The tip, gratuity, or service charge is received on or after January 1, 1986, and is reported by the employee in writing to the employing unit on or before the 10th day of the month following the month in which it is received; or
 2. The employing unit has actual knowledge of tips, gratuities, or service charges not accounted for by the employee and either:
 - a. The tip, gratuity, or service charge is specified and collected by the employing unit; or
 - b. The tip, gratuity, or service charge is used by the employing unit on or after August 3, 1984, in order to conform to the minimum wage requirement of federal or state law.
- B. No benefits shall be paid based on any tip, gratuity, or service charge which the claimant failed to report as specified in subsection (A), paragraph (1) of this rule, unless the provisions of subsection (A), paragraph (2) apply.
- C. For the purposes of reporting and paying contributions on any tip, gratuity, or service charge described in subsection (A) and (B) of this rule, the date on which the employer compensates the employee for the pay period in which either the tip, gratuity, or service charge has been reported to the employer by the employee or in which the employer has allocated the tip, gratuity, or service charge to the employee shall be considered the date the tip, gratuity or service charge is paid.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).

R6-3-1727. Meals or lodging as wages

- A. The money value of board or lodging, or both, furnished a worker shall be the reasonable cash value thereof as determined by the Department. In arriving at the reasonable cash value, the Department shall consider the cost to persons other than the employee of similar goods and services in the vicinity. Unless in a given case a rate for board and lodging is determined by the Department, board or lodging furnished shall be deemed to have not less than the following values:

Breakfast	\$1.25
Lunch	\$1.50
Dinner	\$2.00
Lodging - per day	\$4.00
Meals only - per month	\$142.50
Lodging only - per month	\$120.00
Full room and board - monthly	\$262.50
- B. The term "wages" does not include the value of any meals or lodging furnished to an employee by the employer for the convenience of the employer if, in the case of meals, the meals are

furnished on the business premises of the employer, or in the case of lodging, the employee is required to accept such lodging on the business premises of the employer as a condition of his employment.

1. Meals will be regarded as furnished for the convenience of the employer when they are furnished during regular working hours to have the employee on call during the meal period, or they are furnished during regular working hours because the employer's business is such that the employee could not be expected to eat elsewhere in such a short period, or they are furnished during regular working hours because the employee could not otherwise secure meals in the area in which he works. Meals furnished before or after the working hours of the employee will not be regarded as furnished for the convenience of the employer except when they are furnished to a restaurant employee or other food service employee for each meal period in which the employee works, provided the meal is furnished immediately before or immediately after the working hours of the employee. Meals furnished on days in which the employee performs no services will not be regarded as furnished for the convenience of the employer unless they are furnished in connection with lodging which is furnished for the convenience of the employer.
2. Lodging an employee is required to accept on the business premises of the employer as a condition of his employment will be regarded as furnished for the convenience of the employer when the employee is required to be available for duty at all times, or the employee could not perform the services required of him unless furnished such lodging. Lodging furnished an employee providing managerial, maintenance or security services in an apartment of similar residential complex will be regarded as furnished for the convenience of the employer.
3. Meals or lodging furnished an employee will not be deemed furnished for the convenience of the employer if the employee has the option of receiving other compensation in lieu of meals or lodging or if the employer reduces the cash wages of the employee or otherwise charges for the meals or lodging provided.

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).

ARTICLE 18. BENEFITS**R6-3-1801. Repealed****Historical Note**

Former Regulation 10-2; Former Section R6-3-1801 repealed, new Section R6-3-1801 adopted effective December 17, 1981 (Supp. 81-6). Repealed effective December 2, 1983 (Supp. 83-6).

R6-3-1802. Repealed**Historical Note**

Former Regulation 30-1; Amended effective March 11, 1977 (Supp. 77-2). Amended effective May 21, 1979 (Supp. 79-3). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective December 20, 1995 (Supp. 95-4).

R6-3-1803. Benefit Notice and Determination

- A. When the claimant files a claim to establish a benefit year, the Department shall prepare a statement showing the claimant's weekly benefit amount, total benefits, base-period wages, and benefit year. Prior to the expiration of the benefit year, the claimant may protest the statement if the claimant has reason

to believe base-period wages are omitted or incorrect. Upon receipt of a protest, the Department shall investigate and revise the statement or issue a determination, as prescribed in A.R.S. § 23-773, explaining why the original statement is correct.

- B.** As prescribed in A.R.S. § 23-772, when an initial claim for benefits is filed, the Department shall promptly notify the claimant's most recent employing unit or employer of the claim filing. The notice shall contain the reason given by the claimant for separation from employment and shall advise the employer that the employer may protest payment to the claimant upon any statutory grounds, if such grounds exist, by returning the protest within 10 days after the date of the notice.
- C.** In administering A.R.S. § 23-706(A), the Department shall issue a determination to a reimbursement employer on whether a benefit overpayment classified as administrative is a benefit overpayment caused by Department error.

Historical Note

Former Regulation 30-2; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective June 11, 1980 (Supp. 80-3). Amended effective December 20, 1995 (Supp. 95-4). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1804. Repealed

Historical Note

Former Regulation 10-3; Repealed effective August 3, 1978 (Supp. 78-4). New Section R6-3-1804 adopted effective March 26, 1979 (Supp. 79-2). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1805. Repealed

Historical Note

Former Regulation 30-11; Amended effective August 19, 1981 (Supp. 81-4). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1806. Interstate Claimants

Under A.R.S. § 23-644, the Department shall participate in the Interstate Benefit Payment Plan and shall act as the agent for the other states and Canada who subscribe to the Plan.

Historical Note

Former Regulation 30-4; Amended effective December 17, 1975 (Supp. 75-2). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-1807. Repealed

Historical Note

Former Regulation 30-5. Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1808. Payment on Account of Retirement

- A.** Pension Defined. Pension, as used in A.R.S. §§ 23-791 and 23-624, does not include survivor's benefit payments or other periodic payment which bears no direct relationship to the level of prior remuneration or the length of past employment of the claimant.
- B.** Weekly Deduction.
1. The Department shall determine the amount of pension attributed to a week by dividing the pension recipient's monthly pension by 4.333 and rounding the result to the lowest dollar.
 2. When the recipient contributed at least 45% of the amount for the pension, the Department shall determine

the deductible amount by multiplying the weekly pension by .45 and rounding the result to the lowest dollar.

- C.** Effective Date. The effective date of a reduction in benefits required by A.R.S. § 23-791(A) begins with the 1st week in which either of the following occurs:
1. The recipient receives a pension payment; or
 2. The recipient receives a determination or official notification from the pension source that provides the effective date and the amount of the pension payment and the payment will be made for the week in question.
- D.** Retroactive Payments.
1. An overpayment shall not result from retroactive pension payments for weeks prior to receipt of official notification, nor shall an overpayment result from any retroactive recomputation of the pension payment, unless the recipient fails to disclose the recomputation.
 2. The Department shall not pay retroactive benefits previously denied due to the claimant's receipt of a pension payment that was made in error and must be repaid.
- E.** Lump-sum Payments. The Department shall:
1. Allocate a pension received in 1 lump-sum payment to the week in which the payment is received;
 2. Treat a yearly lump-sum pension payment as a periodic payment and allocate the payment over 52 weeks;
 3. Disregard a lump-sum or yearly lump-sum payment that is rolled over into a non-taxable retirement plan in accordance with provisions of the Internal Revenue Code; and
 4. Disregard a lump-sum payment or other type payoff made because of a separation occurring before the time the recipient meets the length of service terms and age requirement established by the pension plan even if the payment includes pension funds.

Historical Note

Former Regulation 30-7; Repealed effective February 18, 1977 (Supp. 77-1). Adopted as an emergency effective June 18, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former emergency adoption now adopted and amended effective November 7, 1979 (Supp. 79-6). Amended effective March 5, 1982 (Supp. 82-2). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1809. Eligibility for Approved Training

- A.** Approved training under A.R.S. § 23-771.01 includes vocational training or academic courses that provide a claimant the opportunity to achieve reemployment through the development of the claimant's skills and abilities.
1. A claimant is "in training with the approval of the department" when the claimant presents a document from the sponsoring agency that the claimant is participating in 1 of the programs listed in this subsection.
 - a. Training, except for on-the-job training, under Titles II, III, or IV of the Job Training Partnership Act, or its successor.
 - b. A vocational rehabilitation program sponsored or administered by the Department or another public agency.
 - c. Training sponsored or administered by 1 or more programs of the Department.
 - d. Training designed to improve a claimant's understanding of the fundamentals of English or mathematics or training that is intended to result in a general equivalency diploma (GED), unless the claimant is a student enrolled in and regularly attending a public or private secondary educational institution.

- e. Training recommended or financed by the claimant's only base-period employer who is subject to charges for benefits paid to the claimant.
 2. If the training does not meet any of the provisions of subsection (A)(1), the claimant is in training with the approval of the Department if all the following conditions are met:
 - a. The training facility is registered with the Department of Education or its successor, or a comparable agency of another state, and is located within the United States.
 - b. The training course is approved by the Department of Education or its successor, or a comparable agency of another state and:
 - i. Is for a duration of at least 4 weeks but not more than 52 weeks of instruction; and
 - ii. At an academic institution, requires either a minimum of 12 credit hours during fall and spring semesters or at least 6 credit hours during summer sessions, and results in a training certificate; or
 - iii. At a vocational training facility, requires a minimum of 20 hours per week of supervised participation.
 - c. Either the claimant's:
 - i. Prospects for continuing employment for which the claimant is fitted by training and experience are minimal and are not likely to improve in the foreseeable future in the locality in which the claimant resides or is seeking work; or
 - ii. Training, skills, and past work history establish that the claimant only qualifies for jobs that normally pay at or within \$1.00 of the minimum wage and are unlikely to provide advancement opportunity.
 - d. The claimant possesses aptitudes or skills which can be usefully supplemented by retraining and has the qualifications and aptitudes necessary to reasonably assure successful completion of the training course.
 - e. The training course is likely to prepare the claimant for an occupation for which there are, or are expected to be in the immediate future, reasonable full-time employment opportunities in the locality in which the claimant resides or is seeking work.
- B. Weekly Eligibility.**
1. The Department shall pay unemployment insurance benefits, including extended benefits under A.R.S. §§ 23-626 through 23-639, to an otherwise eligible claimant while the claimant is in approved training if the claimant files a timely claim for a week of benefits in the format prescribed by the Department:
 - a. The claim shall include the following information for the applicable claim period,
 - i. A statement of any employment the claimant held and any wages the claimant earned,
 - ii. A statement of any training assistance the claimant received or will receive,
 - iii. A statement as to whether the claimant missed any scheduled training,
 - iv. The claimant's signature or personal identification number,
 - v. A statement from the training facility as to whether the claimant is enrolled in training and satisfactorily pursuing the training course, and
 - vi. The signature or identification number of the training facility's representative which is on file with the Department as being authorized to certify to the claimant's training attendance and progress.
 - b. The claim is timely filed when the Department receives the claim within 14 days of the claim week ending date. If the claim is not received within 14 days, the claimant shall establish good cause for the untimeliness as prescribed in R6-3-5475(H).
 - c. If the training facility has a temporary break in training of less than 6 weeks, and the facility notifies the Department by telephone or in writing that the claimant will continue the training after the break, the Department shall deem the claimant in training.
 2. For purposes of A.R.S. § 23-771.01(B), the Department shall deem subsistence benefits received from a governmental, nonprofit, or community agency for the claimant's own personal entitlement as a training allowance.
 - a. A subsistence payment for the claimant's own personal entitlement includes funds covering transportation or meal costs, but does not include funds covering course costs, tuition, books, supplies, tools, or an allowance for dependents.
 - b. The Department shall allocate the training allowance for each week claimed starting with the week the claimant 1st receives the allowance or the week the claimant receives notice from the agency paying the allowance of the amount to be paid, whichever occurs 1st.
 - c. An overpayment shall not result from retroactive payments for weeks prior to the paying agency notice or 1st payment, unless the claimant fails to tell the Department about the allowance.

Historical Note

Former Regulation 30-8; Amended effective January 3, 1975 (Supp. 75-1). Amended effective March 1, 1978 (Supp. 78-2). Amended effective July 27, 1981 (Supp. 81-4). Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Amended effective Jan 10, 1984 (Supp. 84-1). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-1810. Qualifications

The definitions of wages contained in regulation R6-3-1705 shall be used as the definition of wages for the purposes of A.R.S. §§ 23-634.01, 23-771(7), 23-775(1), 23-775(2), and 23-776(A).

- A.** In determining whether a claimant has earned sufficient wages to requalify under any of the above Sections, the following shall apply:
1. Wages required to requalify will include both insured and non-insured wages, but will not include earnings from self-employment.
 2. Any income that would be reportable as wages on a claim for unemployment insurance (except income from self-employment) can be used as wages to requalify, including wages from agricultural and domestic work.
- B.** The following will govern the determination of whether wages are usable for requalification purposes:
1. In considering requalification under A.R.S. §§ 23-775(1), 23-775(2), and 23-776(A), work must have been performed subsequent to the date of the act which resulted in the disqualification which will be satisfied by the requalification.
 2. In considering requalification under A.R.S. § 23-771(7), the dates the service was performed will be controlling. The services must have been performed during the period

between the beginning date of a benefit year and prior to the effective date of a subsequent benefit year.

3. In considering requalification under A.R.S. § 23-634.01, the work must have been performed subsequent to the week in which the failure to apply for, accept, or seek work occurred. The individual must have worked in each of at least four calendar weeks and the total earnings must equal at least four times the weekly benefit amount. The weeks need not be consecutive.
- C. The proof required to establish wages for requalification purposes under any of the above Sections may consist of check stubs or other payment records, employer statement, or W-2 form (if the beginning date of a prior benefit year or the disqualifying act was such that the W-2 establishes wages were paid after this date).
When the employer's quarterly wage reports available in the Department show the contested wage items, the Department may accept the report(s) as proof of the wages. If necessary for a determination under B. above, the period during which the wages were earned shall be established by other proof. When other evidence cannot be obtained, the affidavit of the claimant, together with affidavit(s) from other individuals with knowledge of the claimant's employment, may be accepted as proof.
- D. Except for wages of which the Department has knowledge through employers' quarterly wage reports, the burden of establishing requalifying wages shall rest on the claimant. The Department may, as it deems appropriate, assist the claimant in the verification of wages which the claimant states he has earned but of which he has no proof, or insufficient proof, by contacting the employer(s) either by telephone or in writing.
- E. A disqualification shall not be terminated prior to the end of the week in which the claimant's earnings subsequent to the disqualifying act totaled sufficient to requalify.
- F. A disqualification assessed in a benefit year under A.R.S. §§ 23-775(1), 23-775(2), or 23-776(A) and not satisfied within the benefit year shall be carried into the next benefit year, unless it is established by the Department's records that the claimant earned sufficient wages to requalify subsequent to the date of the act resulting in the disqualification. A disqualification assessed under A.R.S. § 23-634.01 will not be carried over into a subsequent benefit year.
- G. The amounts required to requalify after disqualification imposed under A.R.S. §§ 23-634.01, 23-775(1), 23-775(2), or 23-776(A) shall not be cumulative. The amount of wages required to purge the largest disqualification shall remove all disqualifications, as long as the wages which are used to requalify were earned subsequent to the date of occurrence of the act which resulted in the disqualification, except that A.R.S. 23-634.01 requires the work must have been performed subsequent to the week of occurrence of the act which resulted in the disqualification and in each of at least four weeks as shown in (B)(3) above.
- H. The following shall govern the determination of the amount of wages required to requalify:
 1. The amount of required wages to requalify under A.R.S. §§ 23-634.01, 23-775(1), 23-775(2), or 23-776(A) shall be determined based on the weekly benefit amount payable at the time the disqualification is imposed. When a revised monetary determination results in a change in the weekly benefit amount, the amount required to requalify after any disqualification not satisfied shall be adjusted in accordance with the new weekly benefit amount, and the claimant shall be notified of the change. Once a disqualification is satisfied by requalification, the amount required to satisfy that disqualification shall not be

adjusted due to any subsequent revision of the weekly benefit amount.

2. The amount of required wages to requalify under A.R.S. § 23-771(7) shall be determined based upon the weekly benefit amount calculated for each monetary determination or redetermination. When a revised monetary determination results in a change in weekly benefit amount, the claimant shall be required to requalify in terms of the new weekly benefit amount. If the claimant cannot requalify at the new rate, and has received benefits based on requalification at the previous rate, an overpayment shall be established.

Historical Note

Adopted effective April 17, 1975 (Supp. 75-1). Amended effective December 10, 1976 (Supp. 76-5). Amended effective January 10, 1977 (Supp. 77-1). Correction, subsection (A), paragraph (2) incorrectly shown as amended effective January 10, 1977, subsection (B), paragraph (2) amended effective January 10, 1977 (Supp. 77-4). Amended effective August 3, 1978 (Supp. 78-4). Amended effective February 24, 1982 (Supp. 82-1). Amended by deleting subsection (I) effective August 29, 1984 (Supp. 84-4).

R6-3-1811. Redetermination of benefits

- A. When a statutory revision of the Arizona Employment Security Law requires UI benefits (awards and unpaid balances) to be redetermined for claims with a benefit year current as of the effective date of the revision (law revision date) and requires payments for weeks beginning on or after the law revision date to be paid at the redetermined rate, the redetermination and related actions shall be made as stated below.
- B. The claimant's benefits shall be redetermined as follows:
 1. The weekly benefit amount payable for weeks beginning on or after the law revision date shall be recomputed in accordance with A.R.S. § 23-779.
 2. A maximum benefit amount (MBA) shall be computed in accordance with A.R.S. § 23-780, using the new weekly amount in the recomputation. This MBA shall be utilized to redetermine the balance payable indicated in paragraph (3) below.
 3. When the old balance payable is equal to the old MBA, the new balance shall be equal to the recomputed MBA. When the old balance is less than the old MBA (payments, statutory deductions, etc. were made prior to the redetermination), the new balance shall be redetermined by dividing the new MBA by the old MBA and multiplying that result by the old balance. The computed amount shall then be rounded to the nearest dollar with 50¢ being rounded to the next higher dollar.
 4. A redetermination notice shall be issued to a claimant only if the recomputed weekly benefit amount is greater than the old weekly amount.
- C. After the law revision date, benefit payments and other transactions for periods prior to the law revision date shall be computed using the old weekly benefit amount in the computation. The new balance payable of many claims will have been increased as indicated in (B)(3) above; therefore, the balance shall be adjusted by the transaction amount after it is adjusted by a computation similar to that in (B)(3). This will insure claimants having delayed claims transactions will be treated as equals to claimants whose transactions were processed before the law revision date.
- D. Claimants are entitled to file a protest when they believe the results of the redetermination of benefits to be incorrect. The Department shall check the redetermination results by manu-

ally recomputing the claimant's benefits as indicated in (B) above. A corrected Wage Statement shall be issued if the original redetermination is found to be incorrect. If the redetermination is found to be correct, a written appealable decision shall be issued.

Historical Note

Adopted effective June 3, 1975 (Supp. 75-1). Amended effective December 17, 1975 (Supp. 75-2). Repealed effective May 3, 1978 (Supp. 78-3). Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective October 30, 1979 (Supp. 79-5).

R6-3-1812. Interest on benefit overpayments

A. Interest will be computed in accordance with the provisions of A.R.S. § 44-1201 on the last day of each calendar month on all outstanding unemployment insurance overpayments with the following exceptions:

1. No interest shall be computed on any overpayment established during that same month.
2. The accumulation of interest on overpayments created through no fault on the part of the claimant will not begin until the sixth calendar month following the month in which the overpayment was established. If, however, a claimant not at fault in creating the overpayment has entered into an acceptable agreement for repayment and is conforming to the conditions of the agreement, the accumulation of interest will continue to be postponed as long as these conditions are met.
3. If the recoupment of an overpayment has been waived, this waiver will include any interest due at the time of waiver and no further interest will be computed.

B. Interest shall be computed monthly on the unpaid balance of the overpayment.

C. Cash payments submitted by a claimant on an unemployment insurance overpayment shall be applied first to the unpaid balance of the overpayment, next to any accumulated interest, and finally to any lien filing and/or any lien release fees.

Historical Note

Adopted effective October 13, 1977 (Supp. 77-5). Repealed effective July 26, 1978 (Supp. 78-4). New Section R6-3-1812 adopted effective February 24, 1982 (Supp. 82-1).

R6-3-1813. Overpayment Deduction Percentage

A. As used in A.R.S. § 23-787(D), the phrase "no reasonable attempt" means:

1. At least 12 months have elapsed since the Department established the overpayment and issued the most recent benefit payment; and
2. During the most recent 12 months, the claimant has not repaid at least \$250 or 20% of the unpaid principal and interest balance, whichever is less. For the purpose of this subsection, the Department shall not consider funds recouped through setoff of tax refunds or Arizona lottery winnings, wage garnishments, or any other involuntary recoupment methods.

B. When the deduction amount is raised to 50%, as provided in A.R.S. § 23-787(D), it shall remain at 50% until the Department has recouped the entire overpayment.

Historical Note

Adopted effective December 20, 1995 (Supp. 95-4).

ARTICLE 19. RECODIFIED

R6-3-1901. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1901 repealed, new Section R6-3-1901 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1901 recodified to A.A.C. R6-14-101 effective February 13, 1996 (Supp. 96-1).

R6-3-1902. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1902 repealed, new Section R6-3-1902 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1902 recodified to A.A.C. R6-14-102 effective February 13, 1996 (Supp. 96-1).

R6-3-1903. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1903 repealed, new Section R6-3-1903 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1903 recodified to A.A.C. R6-14-103 effective February 13, 1996 (Supp. 96-1).

R6-3-1904. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1904 repealed, new Section R6-3-1904 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1904 recodified to A.A.C. R6-14-104 effective February 13, 1996 (Supp. 96-1).

R6-3-1905. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1905 repealed, new Section R6-3-1905 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1905 recodified to A.A.C. R6-14-105 effective February 13, 1996 (Supp. 96-1).

R6-3-1906. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1906 repealed, new Section R6-3-1906 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1906 recodified to A.A.C. R6-14-106 effective February 13, 1996 (Supp. 96-1).

R6-3-1907. Recodified

Historical Note

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Former Section R6-3-1907 repealed, new Section R6-3-1907 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1907 recodified to A.A.C. R6-14-107 effective February 13, 1996 (Supp. 96-1).

R6-3-1908. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1908 repealed, new Section R6-3-1908 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1908 recodified to A.A.C. R6-14-108 effective February 13, 1996 (Supp. 96-1).

R6-3-1909. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1909 repealed, new Section R6-3-1909 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1909 recodified to A.A.C. R6-14-109 effective February 13, 1996 (Supp. 96-1).

R6-3-1910. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1910 repealed, new Section R6-3-1910 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1910 recodified to A.A.C. R6-14-110 effective February 13, 1996 (Supp. 96-1).

R6-3-1911. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Former Section R6-3-1911 repealed, new Section R6-3-1911 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1911 recodified to A.A.C. R6-14-111 effective February 13, 1996 (Supp. 96-1).

R6-3-1912. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1913. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1914. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1915. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1916. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

ARTICLE 20. RECODIFIED**R6-3-2001. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2001 repealed, new Section R6-3-2001 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2001 recodified to A.A.C. R6-14-201 effective February 13, 1996 (Supp. 96-1).

R6-3-2002. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2002 repealed, new Section R6-3-2002 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2002 recodified to A.A.C. R6-14-202 effective February 13, 1996 (Supp. 96-1).

R6-3-2003. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2003 repealed, new Section R6-3-2003 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2003 recodified to A.A.C. R6-14-203 effective February 13, 1996 (Supp. 96-1).

R6-3-2004. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2004 repealed, new Section R6-3-2004 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2004 recodified to A.A.C. R6-14-204 effective February 13, 1996 (Supp. 96-1).

R6-3-2005. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975, Amended effective October 9, 1975 (Supp. 75-1). Former Section R6-3-2005 repealed, new Section R6-3-2005 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2005 recodified to A.A.C. R6-14-205 effective February 13, 1996 (Supp. 96-1).

R6-3-2006. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2006 repealed, new Section R6-3-2006 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2006 recodified to A.A.C. R6-14-206 effective February 13, 1996 (Supp. 96-1).

R6-3-2007. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2007 repealed, new Section R6-3-2007 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2007 recodified to A.A.C. R6-14-207 effective February 13, 1996 (Supp. 96-1).

R6-3-2008. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2008 repealed, new Section R6-3-2008 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2008 recodified to A.A.C. R6-14-208 effective February 13, 1996 (Supp. 96-1).

R6-3-2009. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2009 repealed, new Section R6-3-2009 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2009 recodified to A.A.C. R6-14-209 effective February 13, 1996 (Supp. 96-1).

R6-3-2010. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2010 repealed, new Section R6-3-2010 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2010 recodified to A.A.C. R6-14-210 effective February 13, 1996 (Supp. 96-1).

R6-3-2011. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2011 repealed, new Section R6-3-2011 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2011 recodified to A.A.C. R6-14-211 effective February 13, 1996 (Supp. 96-1).

R6-3-2012. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2012 repealed, new Section R6-3-2012 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2012 recodified to A.A.C. R6-14-212 effective February 13, 1996 (Supp. 96-1).

R6-3-2013. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2013 repealed, new Section R6-3-2013 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2013 recodified to A.A.C. R6-14-213 effective February 13, 1996 (Supp. 96-1).

R6-3-2014. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2014 repealed, new Section R6-3-2014 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2014 recodified to A.A.C. R6-14-214 effective February 13, 1996 (Supp. 96-1).

R6-3-2015. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2015 repealed, new Section R6-3-2015 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2015 recodified to A.A.C. R6-14-215 effective February 13, 1996 (Supp. 96-1).

R6-3-2016. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2016 repealed, new Section R6-3-2016 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2016 recodified to A.A.C. R6-14-216 effective February 13, 1996 (Supp. 96-1).

R6-3-2017. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective March 2, 1976 (Supp. 76-2). Former Section R6-3-2017 repealed, new Section R6-3-2017 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2017 recodified to A.A.C. R6-14-217 effective February 13, 1996 (Supp. 96-1).

R6-3-2018. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2018 repealed, new Section R6-3-2018 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2018 recodified to A.A.C. R6-14-218 effective February 13, 1996 (Supp. 96-1).

R6-3-2019. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2020. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

ARTICLE 21. RECODIFIED**R6-3-2101. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2101 repealed, new Section R6-3-2101 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2101 recodified to A.A.C. R6-14-301 effective February 13, 1996 (Supp. 96-1).

R6-3-2102. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2102 repealed, new Section R6-3-2102 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2102

recodified to A.A.C. R6-14-302 effective February 13, 1996 (Supp. 96-1).

R6-3-2103. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2103 repealed, new Section R6-3-2103 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2103 recodified to A.A.C. R6-14-303 effective February 13, 1996 (Supp. 96-1).

R6-3-2104. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2104 repealed, new Section R6-3-2104 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2104 recodified to A.A.C. R6-14-304 effective February 13, 1996 (Supp. 96-1).

R6-3-2105. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2105 repealed, new Section R6-3-2105 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2105 recodified to A.A.C. R6-14-305 effective February 13, 1996 (Supp. 96-1).

R6-3-2106. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Former Section R6-3-2106 repealed, new Section R6-3-2106 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2106 recodified to A.A.C. R6-14-306 effective February 13, 1996 (Supp. 96-1).

R6-3-2107. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2107 repealed, new Section R6-3-2107 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2107 recodified to A.A.C. R6-14-307 effective February 13, 1996 (Supp. 96-1).

R6-3-2108. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2108 repealed, new Section R6-3-2108 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2108 recodified to A.A.C. R6-14-308 effective February 13, 1996 (Supp. 96-1).

R6-3-2109. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2109 repealed, new Section R6-3-2109 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2109 recodified to A.A.C. R6-14-309 effective February 13, 1996 (Supp. 96-1).

R6-3-2110. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2110 repealed, new Section R6-3-2110 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2110 recodified to A.A.C. R6-14-310 effective February 13, 1996 (Supp. 96-1).

R6-3-2111. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2111 repealed, new Section R6-3-2111 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2111 recodified to A.A.C. R6-14-311 effective February 13, 1996 (Supp. 96-1).

R6-3-2112. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2112 repealed, new Section R6-3-2112 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2112 recodified to A.A.C. R6-14-312 effective February 13, 1996 (Supp. 96-1).

R6-3-2113. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Former Section R6-3-2113 repealed, new Section R6-3-2113 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2113 recodified to A.A.C. R6-14-313 effective February 13, 1996 (Supp. 96-1).

R6-3-2114. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2114 repealed, new Section R6-3-2114 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2114 recodified to A.A.C. R6-14-314 effective February 13, 1996 (Supp. 96-1).

R6-3-2115. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2115 repealed, new Section R6-3-2115 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2115 recodified to A.A.C. R6-14-315 effective February 13, 1996 (Supp. 96-1).

R6-3-2116. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2116 repealed, new Section R6-3-2116 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2116 recodified to A.A.C. R6-14-316 effective February 13, 1996 (Supp. 96-1).

R6-3-2117. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2117 repealed, new Section R6-3-2117 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2117 recodified to A.A.C. R6-14-317 effective February 13, 1996 (Supp. 96-1).

R6-3-2118. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2118 repealed, new Section R6-3-2118 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2118 recodified to A.A.C. R6-14-318 effective February 13, 1996 (Supp. 96-1).

R6-3-2119. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2119 repealed, new Section R6-3-2119 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2119 recodified to A.A.C. R6-14-319 effective February 13, 1996 (Supp. 96-1).

R6-3-2120. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2120 repealed, new Section R6-3-2120 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2120 recodified to A.A.C. R6-14-320 effective February 13, 1996 (Supp. 96-1).

R6-3-2121. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Repealed effective May 24, 1979 (Supp. 79-3). R6-3-2121 recodified to A.A.C. R6-14-321 effective February 13, 1996 (Supp. 96-1).

R6-3-2122. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2122 repealed, new Section R6-3-2122 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2122 recodified to A.A.C. R6-14-322 effective February 13, 1996 (Supp. 96-1).

R6-3-2123. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2123 repealed, new Section R6-3-2123 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2123 recodified to A.A.C. R6-14-323 effective February 13, 1996 (Supp. 96-1).

R6-3-2124. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2124 repealed, new Section R6-3-2124 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2124 recodified to A.A.C. R6-14-324 effective February 13, 1996 (Supp. 96-1).

R6-3-2125. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2125 repealed, new Section R6-3-2125 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2125 recodified to A.A.C. R6-14-325 effective February 13, 1996 (Supp. 96-1).

R6-3-2126. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2126 repealed, new Section R6-3-2126 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2126 recodified to A.A.C. R6-14-326 effective February 13, 1996 (Supp. 96-1).

R6-3-2127. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective March 2, 1976 (Supp. 76-2). Former Section R6-3-2127 repealed, new Section R6-3-2127 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2127 recodified to A.A.C. R6-14-327 effective February 13, 1996 (Supp. 96-1).

R6-3-2128. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2129. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2130. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2131. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2132. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2133. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2134. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2135. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2136. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2137. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2138. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2139. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2140. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

ARTICLE 22. RECODIFIED**R6-3-2201. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2201 repealed, new Section R6-3-2201 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2201 recodified to A.A.C. R6-14-401 effective February 13, 1996 (Supp. 96-1).

R6-3-2202. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2203. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2203 repealed, new Section R6-3-2203 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2203 recodified to A.A.C. R6-14-402 effective February 13, 1996 (Supp. 96-1).

R6-3-2204. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2205. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2206. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2207. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2208. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2209. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2210. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2211. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2212. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2213. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2214. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2215. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2216. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2217. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2218. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2219. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2220. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2221. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2222. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2223. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2224. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2225. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
Repealed effective May 24, 1979 (Supp. 79-3).

ARTICLE 23. RECODIFIED**R6-3-2301. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2301 repealed, new Section R6-3-2301 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2301 recodified to A.A.C. R6-14-501 effective February 13, 1996 (Supp. 96-1).

R6-3-2302. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2302 repealed, new Section R6-3-2302 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2302 recodified to A.A.C. R6-14-502 effective February 13, 1996 (Supp. 96-1).

R6-3-2303. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2303 repealed, new Section R6-3-2303 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted effective March 11, 1980 (Supp. 80-2). R6-3-2303 recodified to A.A.C. R6-14-503 effective February 13, 1996 (Supp. 96-1).

R6-3-2304. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2304 repealed, new Section R6-3-2304 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2304 recodified to A.A.C. R6-14-504 effective February 13, 1996 (Supp. 96-1).

R6-3-2305. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former

Section R6-3-2305 repealed, new Section R6-3-2305 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted effective March 11, 1980 (Supp. 80-2). R6-3-2305 recodified to A.A.C. R6-14-505 effective February 13, 1996 (Supp. 96-1).

R6-3-2306. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2306 repealed, new Section R6-3-2306 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2306 recodified to A.A.C. R6-14-506 effective February 13, 1996 (Supp. 96-1).

R6-3-2307. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2307 repealed, new Section R6-3-2307 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2307 recodified to A.A.C. R6-14-507 effective February 13, 1996 (Supp. 96-1).

R6-3-2308. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2309. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2310. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2311. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2312. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2313. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2314. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2315. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2316. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2317. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2318. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2319. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2320. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

ARTICLE 24. RECODIFIED**R6-3-2401. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2401 repealed, Section R6-3-2402 renumbered as Section R6-3-2401 effective July 25, 1977 (Supp. 77-4). Former Section R6-3-2401 repealed, new Section R6-3-2401 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2401 recodified to A.A.C. R6-14-601 effective February 3, 1996 (Supp. 96-1).

R6-3-2402. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2402 repealed, new Section R6-3-2402 adopted effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2402 renumbered as Section R6-3-2401, Section R6-3-2403 renumbered as Section R6-3-2402 effective July 25, 1977 (Supp. 77-4). Former Section R6-3-2402 repealed, new Section R6-3-2402 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2402 recodified to A.A.C. R6-14-602 effective February 3, 1996 (Supp. 96-1).

R6-3-2403. Repealed**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2403 repealed, new Section R6-3-2403 adopted effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2403 renumbered as Section R6-3-2402, Section R6-3-2404 renumbered as Section R6-3-2403 effective July 25, 1977 (Supp. 77-4). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2404. Recodified**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2404 renumbered as Section R6-3-2403 effective July 25, 1977 (Supp. 77-4). New Section R6-3-2404 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2404 recodified to A.A.C. R6-14-604 effective February 3, 1996 (Supp. 96-1).

R6-3-2405. Recodified**Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2405 recodified to A.A.C. R6-14-605 effective February 3, 1996 (Supp. 96-1).

R6-3-2406. Recodified**Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2406 recodified to A.A.C. R6-14-606 effective February 3, 1996 (Supp. 96-1).

R6-3-2407. Recodified**Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2407 recodified to A.A.C. R6-14-607 effective February 3, 1996 (Supp. 96-1).

R6-3-2408. Recodified**Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2408 recodified to A.A.C. R6-14-608 effective February 3, 1996 (Supp. 96-1).

R6-3-2409. Reserved**R6-3-2410. Recodified****Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2410 recodified to A.A.C. R6-14-610 effective February 3, 1996 (Supp. 96-1).

ARTICLE 25. REPEALED**R6-3-2501. Repealed****Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2501 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2502. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2502 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2503. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2503 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2504. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2504 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2505. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2505 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2506. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2506 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

R6-3-2507. Repealed**Historical Note**

Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2507 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

ARTICLE 26. REPEALED

Former Article 26 consisting of Sections R6-3-2601 through R6-3-2623 repealed effective May 24, 1979.

ARTICLE 27. REPEALED

Former Article 27 consisting of Section R6-3-2701 repealed effective May 24, 1979.

ARTICLE 28. RESERVED**ARTICLE 29. RESERVED****ARTICLE 30. RESERVED****ARTICLE 31. RESERVED****ARTICLE 32. RESERVED****ARTICLE 33. RESERVED****ARTICLE 34. RESERVED****ARTICLE 35. REPEALED**

Former Article 35 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 36. REPEALED

Former Article 36 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 37. REPEALED

Former Article 37 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 38. REPEALED

Former Article 38 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 39. REPEALED

Former Article 39 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 40. REPEALED

Former Article 40 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 41. REPEALED

Former Article 41 consisting of Sections R6-3-4101 through R6-3-4106 repealed effective July 9, 1980 (Supp. 80-4).

ARTICLE 42. RESERVED**ARTICLE 43. RESERVED****ARTICLE 44. RESERVED****ARTICLE 45. RESERVED****ARTICLE 46. RESERVED****ARTICLE 47. RESERVED****ARTICLE 48. RESERVED****ARTICLE 49. RESERVED****ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY RULES****R6-3-5001. Reserved****R6-3-5002. Reserved****R6-3-5003. Reserved****R6-3-5004. Reserved****R6-3-5005. General Provisions**

- A. For the purpose of interpreting A.R.S. § 23-775(1), the following phrases have the meanings prescribed in this subsection:
1. "In connection with the employment" means a condition related to employment caused a worker to leave employment. If the employer changes the conditions or terms of employment, and the changes affect the worker's personal affairs, the worker leaves employment in connection with the employment rather than as a result of personal circumstances.
 2. "Left work voluntarily" means that a worker terminated the worker-employer relationship and intended to do so.
- B. For the purpose of interpreting A.R.S. § 23-727(D), the following phrases have the meanings prescribed in this subsection:
1. "Compelling personal reasons" mean causes which arise from a worker's personal circumstances rather than from a condition created by or relating solely to the employment and which leave the worker with no reasonable alternative but to end the employment relationship.
 2. "Not attributable to the employer" means that an employer committed no act or omission to make an employment relationship unsuitable for a worker.

Historical Note

Former Rule number - Voluntary Leaving 5. - 5.1. Former Rule repealed, new Section R6-3-5005 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended subsection (C), paragraphs (1) and (2) effective July 24, 1980 (Supp. 80-4). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5006. Reserved thru**R6-3-5039. Reserved****R6-3-5040. Attendance at School or Training Course**

- A. Leaving to Attend School. Except as provided in subsection (B), a worker who leaves a job to attend school or training

quits voluntarily without good cause in connection with the work.

- B. Leaving for Approved Training.** A worker approved for and attending training as prescribed in A.R.S. § 23-771.01 and A.A.C. R6-3-1809 leaves work for a compelling personal reason if the work:

1. Was temporary employment during school vacation periods or other breaks and the worker leaves work to continue training when school reopens; or
2. Hinders the worker from making satisfactory progress in school.

Historical Note

Former Rule number - Voluntary Leaving 40. Former Rule repealed, new Section R6-3-5040 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-5041. Reserved thru

R6-3-5049. Reserved

R6-3-5050. Repealed

Historical Note

Former Rule number - Voluntary Leaving 50. Former Rule repealed, new Section R6-3-5050 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5051. Reserved thru

R6-3-50134. Reserved

R6-3-50135. Quit or Discharge

A. Distinguishing Quits and Discharges

1. Except as otherwise provided in this Chapter, a worker's separation from employment is either a quit or a discharge.
 - a. The separation is a quit when the worker acts to end the employment and intends this result.
 - b. The separation is a discharge when the employer acts to end the employment and intends this result. A discharge includes:
 - i. A layoff for lack of work, and
 - ii. A request by the employer for the worker's resignation.
2. The Department shall determine whether a separation is a quit or discharge by considering all relevant factors, including:
 - a. Both parties' remarks and actions,
 - b. Who initiated the separation, and
 - c. The parties' intentions.
3. A party's expression of criticism or effort to clarify the position of the other party does not by itself constitute notice of intent to quit or to discharge.
4. When the worker or the employer gives notice of intent to end an employment relationship, later attempts to withdraw the termination do not change the type of separation, except as otherwise provided in subsection (A)(5).
 - a. The type of separation does not change even if:
 - i. The party who causes the separation allows the other party to choose the time or type of separation, or
 - ii. The parties agree to delay the date of separation.
 - b. A separation is a quit when the worker tells the employer the worker is quitting but agrees to work long enough to train a replacement. The separation

remains a quit even if the employer later fails to temporarily keep the worker.

5. A separation is a quit when an employer, who previously gave a worker notice of intent to end the employment relationship, on or before the intended termination date offers continued employment under conditions not amounting to new work, and the worker elects to leave as of the original termination date.

B. Leaving before Effective Date of Discharge

1. Unless a worker establishes good cause or a compelling personal reason for leaving, as prescribed in this Article, a worker who quits before the effective date of discharge leaves work without good cause in connection with the work.
2. When a worker quits because the employer has told the worker that the worker is to be discharged for acts or omissions amounting to misconduct connected with the work, as determined by the Department, the rules in Article 51 governing separation for misconduct apply.

C. Leaving in Anticipation of Discharge.

If a worker, based on information other than the employer's authorized notification of discharge, believes that the employer intends to discharge the worker, the worker shall take steps, prior to leaving, to find out if the worker is, in fact, to be discharged. If the worker fails to do so and was not to be discharged, the worker leaves work voluntarily without good cause in connection with the work.

D. Discharge before Effective Date of Resignation

1. If a worker submits a resignation with a specific effective date, and the employer discharges the worker before the effective date:
 - a. The separation is a discharge for reasons other than work-connected misconduct if the discharge is because of the resignation and is 15 days or more before the effective date of the resignation; and
 - b. The separation is a quit if the discharge is because of the resignation and is less than 15 days before the effective date of the resignation. The reason for the resignation shall determine whether the worker had good cause for quitting or was compelled to quit.
2. If the discharge is not because of the resignation, the Department shall determine whether to assess a disqualification based on the reason for discharge, in accordance with Article 51 of this Chapter.

Historical Note

Former Rule number -- Voluntary Leaving 135. - 135.5. Former Rule repealed, new Section R6-3-50135 adopted effective January 24, 1977 (Supp. 77-1). Amended effective January 23, 1979 (Supp. 79-1). Amended by adding subsection (H) effective July 27, 1983 (Supp. 83-4). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.01. Quit or Discharge; Absence From Work

Except as provided in R6-3-50135.03 and R6-3-50135.04, when a separation occurs because of a worker's absence from work, and a discharge is not established:

1. The separation is a discharge if:
 - a. The worker had a reason for the absence,
 - b. The worker intended to return to work upon a certain occurrence, and
 - c. The worker tried to return to work; or
2. The separation is a quit if:
 - a. The worker did not intend to return to work, and
 - b. Made no attempt to preserve the job.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.02. Quit or Discharge; Volunteering for Layoff

When a worker's separation is the result of the worker volunteering for a layoff or furlough due to a reduction in the work force, the Department shall determine whether a disqualification is assessed based on whether the employer or the worker initiated the action.

1. The separation is a discharge for nondisqualifying reasons when the employer determines that a layoff is to occur and then asks if there are workers who will volunteer for the layoff or volunteer to accept the employer's retirement plan.
2. The separation is a voluntary leaving without good cause when a worker requests or volunteers for layoff status prior to any specific announcement by the employer and the employer acts upon the request, unless the worker establishes that the leaving was for a compelling personal reason.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.03. Quit or Discharge; Leave of Absence

- A. "Leave of absence" means an agreement between an employer and a worker in which the employer promises the worker that the worker may return to work on a particular date or when a reasonably foreseeable event occurs.
 1. A leave of absence agreement may be oral or written.
 2. A leave of absence may, but is not required to be, based on a collective bargaining agreement or a company policy.
- B. An agreement in which an employer offers a worker only a preference for rehire is not a leave of absence.
- C. If a worker does not return to work at the end of a leave of absence for a definite period, the worker's reason for not returning determines the type of separation.
- D. If a worker who is on a leave of absence for a definite period asks to return to work prior to the end of the leave, and work is not available until the leave ends, the separation is for a compelling personal reason.
- E. If the worker described in subsection (D) later fails to return to work when the leave period ends, and work is available, the Department shall determine that the worker separated as of the 1st working day after the leave expires and shall determine whether to assess a disqualification based on the worker's reason for not returning to work.
- F. A separation is a layoff when a worker on a leave of absence tries to return to work at the end of a definite leave period, or following a foreseeable event, but the employer has no work for the worker.
- G. When a worker on a leave of absence applies for benefits without 1st notifying the employer of the worker's availability for work, the worker's reason for not attempting to return determines the type of separation.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.04. Quit or Discharge; Investigative or Disciplinary Suspension

- A. If an employer places a worker on a suspension without pay, pending the investigation of an alleged wrongdoing or as a disciplinary action, the employer-employee relationship is presumed to continue during the suspension period unless 1 of the following events occurs during the suspension period.
 1. The worker gives notice to the employer that the worker does not intend to return to work. When the reason for the

leaving is because of the worker's objection to a disciplinary action, the worker's eligibility is determined in accordance with R6-3-50138.

2. The employer notifies the worker that the job will not be available at the end of the suspension. The Department shall determine the reason for separation based on the reason the job is no longer available.
3. The worker files a claim for benefits.
- B. When a worker files a claim for benefits during the suspension period, the Department shall determine the type of separation based on the worker's reason for filing the claim and subsections (B)(1) through (5).
 1. If the suspension is for an unreasonable period of time and the worker cannot reasonably be expected to remain ready to return to work at the end of the suspension, the suspension terminates the employer-employee relationship and the worker is discharged on the date the worker was suspended and for the reason the worker was suspended.
 2. If the suspension period is not unreasonable, the separation is a voluntary quit.
 3. For the purpose of this rule, a suspension of 16 or more of the employer's workdays is a suspension for an unreasonable period of time.
 4. If returning to work at the end of the suspension would create an intolerable work situation for the worker, pursuant to R6-3-50515, the separation is a voluntary leaving with good cause in connection with the work.
 5. If personal circumstances deemed compelling pursuant to this Article arise during the suspension, making it unreasonable for the worker to return to work, the worker leaves for compelling personal reasons not attributable to the employer.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.05. Quit or Discharge; Corporate Officer

When a worker separates from a business in which the worker was a corporate officer, the Department shall use the following guidelines to determine whether to assess a disqualification.

1. A corporate officer who, on the officer's own accord or as a participant in a decision made by a majority of the officers, decides to sell or close the business or to otherwise separate from the corporation, leaves voluntarily. The reason for the sale or closure determines whether the corporate officer left for compelling personal reasons or had good cause for leaving.
2. If the corporation is sold because of declining income and increasing indebtedness, the corporate officer leaves voluntarily without good cause unless the corporation could not have continued.
3. If a corporate officer is forced out by a majority decision of the other officers, the corporate officer is discharged for reasons other than misconduct unless the termination was for reasons which constitute misconduct as defined in A.R.S. § 23-619.01 and Article 51 of this Chapter.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.06. Quit or Discharge; Temporary Service Employer and Leasing Employer

- A. If a worker separates from a temporary services employer or leasing employer, both as defined in A.R.S. § 23-614(G), after finishing work for the employer's client, the separation is either a quit or a layoff due to lack of work.

1. If the worker has, in accordance with the temporary services or leasing employer's rules and procedures about which the worker knew or should have known, failed to report to the employer regarding subsequent work, the separation is a quit and the Department shall determine the worker's eligibility, in accordance with Article 50 of this Chapter.
 2. If the worker reported to the employer in the manner required and the employer did not immediately refer the worker to a new assignment, the separation is a layoff for lack of work.
 3. If the worker reported to the employer and was referred to a new assignment which the worker refused, the separation is either a voluntary leaving or a discharge and refusal of new employment as prescribed in R6-3-50315.
- B.** If a worker separates from the employer before finishing a contracted assignment, the separation is either a quit or a discharge based on the reason for the noncompletion.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50136. Reserved**R6-3-50137. Reserved****R6-3-50138. Disciplinary action (V L 138)**

- A.** A worker may leave because of disciplinary action taken against him by his employer. He leaves without good cause in connection with the work if:
1. The event which resulted in the disciplinary action was within his control, or
 2. He was responsible for the event.
- B.** He leaves with good cause in connection with the work if he makes a reasonable attempt to adjust his grievance prior to leaving and the disciplinary action was:
1. Discriminatory, or
 2. Unreasonable, or
 3. Unduly severe.

Historical Note

Former Rule number -- Voluntary Leaving 138. Former Rule repealed, new Section R6-3-50138 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-50139. Reserved
thru****R6-3-50149. Reserved****R6-3-50150. Distance to Work**

- A.** Transportation
1. When a worker quits because of transportation difficulties, it must be determined if the worker left without good cause in connection with the work, or whether the worker separated for compelling personal reasons not attributable to the employer and not warranting disqualification. Factors to be considered are:
 - a. Availability of transportation, both public and private;
 - b. Time, distance, and cost of travel in relation to wages paid;
 - c. Customary practice of workers in claimant's locality;
 - d. Customary practice in worker's trade;
 - e. Worker's past pattern of transportation;
 - f. Relocation of work site;
 - g. Adverse effect of travel on claimant's health;
 - h. Prospects of obtaining other work without serious transportation problems.

2. If a worker quits because the employer violates an agreement to provide transportation, the worker leaves with good cause connected with the work.

B. Commuting distance

1. If a worker elects to move the worker's residence beyond reasonable commuting distance for non-compelling reasons and quits work for that reason, the worker's leaving is without good cause in connection with the work.
2. If a worker quits because the employer moves the work premises beyond reasonable commuting distance, the worker leaves with good cause in connection with the work.
3. If a worker whose residence or work location has not substantially changed quits work because the commuting distance is excessive, the worker leaves without good cause unless:
 - a. The travel time or expense was excessive, and the worker has reasonable prospects of other, more suitable work; or
 - b. The travel time or expense was unreasonable.
4. "Beyond reasonable commuting distance" is determined from all surrounding facts and circumstances but shall be presumed when the claimant:
 - a. Resides more than 30 miles from the claimant's place of employment; or
 - b. Has a 1-way commuting time of more than 1 1/2 hours between the claimant's residence and place of employment;
 - c. Has commuting expenses equal to 15% or more of a claimant's gross wage, unless such expenses are customary for the claimant or for workers residing in the same locality as the claimant.
5. The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for official travel as the standard for determining cost of travel to the claimant.

Historical Note

Former Rule number -- Voluntary Leaving 150. - 150.2. Former Rule repealed, new Section R6-3-50150 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-50151. Reserved**R6-3-50152. Reserved****R6-3-50153. Reserved****R6-3-50154. Reserved****R6-3-50155. Domestic circumstances**

- A.** General.
1. A worker who quits because of domestic obligations involving legal or moral responsibilities of such a compelling nature that he cannot disregard them would leave work for compelling personal reasons.
 2. However, the mere existence of family obligations does not of itself mean that the worker was compelled to leave. If he had a reasonable alternative to quitting which he failed to exercise he will be found to have left voluntarily.
 3. The availability for work of the individual who leaves for domestic reasons must always be examined.
- B.** Care of children. Parents or persons who assume responsibility for the welfare of children not their own are morally and legally obligated to provide care and attention for those children.
1. Leaving to provide care for children may be for compelling personal reasons, depending upon the degree of

necessity for the claimant to provide that care. These factors should be considered:

- a. Child's age
 - b. Health
 - c. Home and neighborhood surroundings which might affect the child's safety
 - d. Availability of child care arrangements
 - e. Leave of absence
2. The leaving may be with good cause in connection with the work if:
- a. The hours of work or place of employment are changed; or
 - b. The employer without valid reason refuses a leave of absence.

C. Home, spouse, or parent in another locality.

1. A spouse or unemancipated minor who leaves work to accompany or join the other spouse or parent who has moved to a new locality from which it is impractical to commute shall be considered to have done so for a compelling personal reason not attributable to the employer and not warranting disqualification for benefits provided that the other spouse or parent moved:
 - a. For a compelling personal reason; or
 - b. For the purpose of establishing a domicile at the new locality for three months or longer; or
 - c. From a locality other than that in which the spouse or unemancipated minor lived and other spouse or parent had no intention, within the foreseeable future, of establishing a domicile at the locality which the spouse or unemancipated minor left.
2. A spouse or unemancipated minor who leaves to accompany the other spouse or parent who is a member of the armed services and who is transferred to another locality as a result of official orders is considered to have left for a compelling personal reason not attributable to the employer and not warranting disqualification for benefits.
3. For the purpose of this Section, an "unemancipated minor" is a person who is less than 18 years of age, is single, and who lives in the same household except for temporary absences, e.g., school attendance, vacations, hospitalization, etc.

D. Household duties. An individual who quits because working interferes with household duties leaves without good cause in connection with his work unless the household duties required of him are so compelling as to leave no reasonable alternative.

E. Housing.

1. When a worker quits because of housing problems, it must be determined if his leaving was with or without good causes or for a compelling personal reason. Among the factors to be considered are:
 - a. The availability of adequate housing within a reasonable distance to his work.
 - b. The cost of housing in relation to wages.
 - c. Prospects of other work offering a solution to his housing problems.
2. A worker leaves with good cause in connection with his work if:
 - a. Adequate housing is promised by an employer and is not provided; or
 - b. The employer informs the worker that housing is available, but such housing is so primitive that it is a menace to the health of the worker or his family.

F. Illness or death of others.

1. A worker who quits because of the death or illness of a member of his immediate family or to provide care for a

family member would leave for compelling personal reasons if:

- a. A leave of absence cannot be obtained or would be impracticable; and
 - b. No other reasonable alternative exists.
2. A worker leaves with good cause in connection with his work if his difficulty in caring for the ill relative is due to a change in working conditions, or when the employer with out valid reason refused to grant a leave of absence for this purpose.
3. The following shall be considered members of the employee's immediate family in applying this policy:

Father	Son
Mother	Daughter
Brother	Husband
Sister	Wife

Note: This list may be extended to include other persons whose relationship to the claimant closely resembles the above because of personal circumstances, e.g., foster parents, child raised by distant relative, etc.

G. Marriage.

1. When a worker quits to be married or because he has married, the leaving is voluntary without good cause in connection with the work.
2. If the employer terminates the employment because of a company rule which prohibits continuing employment of both employees when co-workers marry, the separation is a discharge.

Historical Note

Former Rule number -- Voluntary Leaving 155. - 155.4. Former Rule repealed, new Section R6-3-50155 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 19, 1979 (Supp. 79-2). Amended subsection (G), paragraph (2) effective July 24, 1980 (Supp. 80-4). Amended (A)(2), (B), (C), and (E) effective September 2, 1981 (Supp. 81-5). Amended effective September 24, 1986 (Supp. 86-5).

R6-3-50156. Reserved thru

R6-3-50189. Reserved

R6-3-50190. Evidence (V L 190)

A. General (V L 190.05)

1. Evidence is that which furnishes any mode of proof or that which is submitted as a means of learning the truth of any alleged matter of fact. This evidence is usually in the form of oral or written statements of a claimant, employer, and/or witnesses. The adjudicator must obtain all pertinent evidence reasonably available to make a non-monetary determination.
2. A claimant or employer statement, written and signed by him, is valuable as evidence. Documentary evidence, such as physicians' statements or union by-laws and contracts, is often significant. Such evidence should be fully identified and proved authentic in order to have evidential weight.

B. Burden of proof and presumption (V L 190.1)

1. The burden of proof consists of the requirement to submit evidence of such nature that, taking all other circumstances into account, the facts alleged appear to be true. When this burden has been met, the evidence becomes proof.
2. The burden of proof rests upon the individual who makes a statement.

- a. If a statement is denied by another party, and not supported by other evidence, it cannot be presumed to be true.
- b. When a voluntary leaving has been established, the burden of proof rests on the claimant to show that it was for nondisqualifying reasons.
- c. When a claimant states that he did not leave voluntarily, and the employer maintains he did, the burden of proof shifts to the employer to establish that there has been a quit.

C. Weight and sufficiency (V L 190.15)

- 1. Evidence must be evaluated during the course of adjudication to determine whether it is sufficient to make a decision. Sufficiency is reached when further rebuttal or circumstantial evidence will not alter the conclusions of the adjudicator.
- 2. When sufficient evidence has been obtained, all the facts available must be weighed. Only relevant evidence can be considered.
 - a. Unsupported oral statements may be outweighed by documentary evidence from disinterested third parties.
 - b. Specific detailed facts must be given more credence than general statements.
 - c. The testimony of eyewitnesses must be given more weight than hearsay statements.

Historical Note

Former Rule number -- Voluntary Leaving 190. - 190.15.
Former Rule repealed, new Section R6-3-50190 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-50191. Reserved
thru**

R6-3-50209. Reserved

R6-3-50210. Good cause (V L 210)

- A.** The commonly accepted test of "good cause", when considering voluntary leaving, is "What would the reasonable worker have done under similar circumstances?" The following two points should be considered:
 - 1. What were the claimant's reasons for leaving?
 - 2. Do the reasons justify leaving?
- B.** A worker's voluntary separation is not disqualifying if it is consistent with well defined public policy. Examples of this type of cause for leaving are:
 - 1. Legally substandard employment.
 - 2. Work which meets legal standards, but involves undue risk to the worker's health or safety.
- C.** A reasonable worker will not quit impulsively. He will attempt to maintain the employment except when this is impossible or impractical. Good cause is generally not established unless the worker takes one or more of the following steps prior to quitting in an attempt to adjust the grievance:
 - 1. Gives the work a fair trial.
 - 2. Attempts to adjust unsatisfactory working conditions.
 - 3. Requests a leave of absence when necessary to resolve some personal difficulty.
- D.** A worker need not take such steps before quitting if they are impracticable or impossible, or would obviously not be fruitful.

Historical Note

Former Rule number -- Voluntary Leaving 210. Former Rule repealed, new Section R6-3-50210 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-50211. Reserved
thru**

R6-3-50234. Reserved

R6-3-50235. Health or physical condition (V L 235)

A. General (V L 235.05)

- 1. Leaving work due to health or physical conditions may be for:
 - a. Compelling personal reasons; or
 - b. Good cause in connection with the work.
- 2. A contention that a leaving is for reasons of health or physical conditions must be substantiated. Supporting evidence may be:
 - a. Doctor's statement; or
 - b. Employer or witness statement; or
 - c. Adjudicator's observation.
- 3. All separations from work caused by illness or physical disability raises a question of ability to work. This issue should be investigated and determined under R6-3-52235.

B. Illness or injury (V L 235.25)

- 1. A worker who quits because his health or physical condition is adversely affected by the conditions of work must make a reasonable effort to correct the situation to avoid disqualification, unless efforts to correct the situation would be impossible or impractical. A reasonable effort might include:
 - a. Requesting a leave of absence to recover.
 - b. Requesting transfer to other duties which are not detrimental to his health.
 - c. Requesting that unfavorable working conditions be corrected.
- 2. A worker would leave with good cause connected with his work if:
 - a. The injury or impairment of health was caused by working conditions which are substantially less favorable than those prevailing for similar work in the area; or
 - b. The job becomes too strenuous due to a change in working conditions placed in effect by the employer after the worker has established his ability to do the work for which he was hired.
- 3. A worker leaves for compelling personal reasons not attributable to the employer if:
 - a. The work aggravates a health or physical condition which existed prior to the claimant's acceptance of the job; or
 - b. His services are terminated as a result of compensable industrial injury, unless such injury was caused by working conditions substantially less favorable than those prevailing for similar work in the area; or
 - c. He is absent because of illness or injury, which fact he has reported to the employer, and during his absence he is replaced. Exception: If the disability lasts for seven working days or less and the worker is replaced, the finding shall be that the claimant was discharged for nondisqualifying reasons.
- 4. As a general rule the worker who quits because of a physical handicap which makes his work too difficult for him leaves for a compelling personal reason not attributable to the employer. The determination depends upon the extent to which the worker is handicapped or to which the physical handicap increases his risk of injury or illness. Among the factors to consider are:
 - a. Did the worker give the job a fair trial?
 - b. Did he request a transfer to other work which he could perform?

- c. Is the work suitable, considering the worker's health and safety?
- 5. If the employer changes the conditions of work, making it unsuitable for the handicapped worker, he leaves with good cause in connection with the work.
- C. Pregnancy (V L 235.4)
 - 1. A woman who quits work because of pregnancy leaves voluntarily without good cause if the work was within her physical limitations.
 - 2. A woman who quits because her work became too difficult due to her pregnancy separates for a compelling personal reason provided that she had no reasonable alternative such as:
 - a. Taking time off to recover from a minor spell of inability such as morning sickness.
 - b. Transfer to less strenuous work.
 - 3. A woman who quits because the employer changes her work assignments so that the work is too difficult for her to perform due to her pregnancy, leaves voluntarily with good cause in connection with the work.
 - 4. A woman who is required by her employer to leave employment due to pregnancy, whether or not there is an employer rule requiring such separation, is discharged from employment. Such cases shall be considered under R6-3-51235.
- D. Risk of illness or injury (V L 235.45)
 - 1. If a claimant quits because of an established risk to his health or safety, he leaves with good cause in connection with the work. Such risk might be shown by the employer's failure to comply with government requirements concerning sanitation, temperature, ventilation, or safety regulations. This is a question of fact which should be determined upon information from appropriate governmental authorities.
 - 2. Standard and legally acceptable conditions of the industry may present undue risks to the health or safety of an individual because of some health problem peculiar to him. Such a leaving is for a compelling personal reason. Refer to R6-3-5005(C) and R6-3-50235(B).
 - 3. A worker may leave employment merely because he fears that his health and physical well being are endangered.
 - a. Such a fear generally does not provide good cause for leaving unless the conditions of the work are substantially less favorable than those prevailing for similar work in the area. Refer to R6-3-50235(B) and R6-3-50515(D).
 - b. The leaving must be rested for good cause. Refer to R6-3-50210.

Historical Note

Former Rule number -- Voluntary Leaving 235. - 235.45. Former Rule repealed, new Section R6-3-50235 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective August 3, 1978 (Supp. 78-4). Amended subsection (B), paragraph (3), subparagraph (b) and repealed subsection (B), paragraph (6) effective July 24, 1980 (Supp. 80-4). Amended subsection (D) effective July 24, 1981 (Supp. 81-4).

**R6-3-50236. Reserved
thru**

R6-3-50304. Reserved

R6-3-50305. Repealed**Historical Note**

Former Rule number -- Voluntary Leaving 305. Former Rule repealed, new Section R6-3-50305 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 5, 1982 (Supp. 82-2). Repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-50306. Reserved
thru**

R6-3-50314. Reserved

R6-3-50315. New work (V L 315)

When an employee resigns rather than accepts conditions of employment which are different from those under which he has been working, a decision must be made as to whether he has left work voluntarily or has refused an offer of new work.

- 1. If the changes in working conditions are not substantial, a voluntary leaving is found.
- 2. If the changes in working conditions are so substantial as to constitute a new job (i.e., they are not expressly or impliedly authorized in the original employment relationship); the separation shall be regarded as a "discharge" and a refusal of a new offer of work. In such cases the failure to accept work shall be held to have occurred on the first workday following the last day of work.
- 3. If it is determined that the worker separated due to a lay-off and refused an offer of new work, the employer is an interested party to the refusal of work determination since the refusal issue arises from the separation.

Historical Note

Former Rule number -- Voluntary Leaving 315. Former Rule repealed, new Section R6-3-50315 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 19, 1981 (Supp. 81-4).

**R6-3-50316. Reserved
thru**

R6-3-50344. Reserved

R6-3-50345. Retirement

- A. Except as otherwise provided in subsection (B) and R6-3-50135.02, a worker who chooses to retire from employment leaves voluntarily without good cause in connection with the employment.
- B. If a worker retires for health reasons, the Department shall determine whether the worker left for good cause in connection with the employment or for a compelling personal reason not attributable to the employer as prescribed in R6-3-50235.

Historical Note

Former Rule number -- Voluntary Leaving 345. Former Rule repealed, new Section R6-3-50345 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

**R6-3-50346. Reserved
thru**

R6-3-50359. Reserved

R6-3-50360. Personal affairs (V L 360)

An individual who quits work to care for personal affairs generally leaves voluntarily without good cause in connection with his employment. However if the personal circumstances are so compelling or burdensome that the claimant has no reasonable alternative to quitting, his leaving is for compelling personal reasons. Leaving to care for personal affairs may involve business matters, settlement of an estate, a lawsuit, divorce proceedings, etc.

Historical Note

Former Rule number -- Voluntary Leaving 360. Former Rule repealed, new Section R6-3-50360 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-50361. Reserved**R6-3-50362. Reserved****R6-3-50363. Reserved****R6-3-50364. Reserved****R6-3-50365. Prospect of other work (V L 365)****A. General (V L 365.05)**

1. A worker who has no objection to the work he has been doing and quits because he has prospects of other work, but no definite offer, leaves voluntarily without good cause in connection with his work.
2. A leaving to accept employment that would clearly better the claimant's economic or personal circumstances or working conditions, is for a compelling personal reason.
 - a. If the prospective employment fails to materialize because of circumstances beyond the control of the claimant the determination on the leaving would remain the same.
 - b. The claimant's statement that he left to accept other work is questionable when there is an unreasonable time lapse between the two jobs. This point may be decisive in determining whether or not the claimant left for a compelling personal reason.
3. A quit because the claimant objects to some aspect of the work he has been doing should be considered with reference to the appropriate Benefit Policy rule.

B. Leaving to enter self employment (V L 365.3). A worker who quits to enter self employment leaves voluntarily without good cause in connection with his work.

C. Leaving part-time work to accept full-time work (V L 365.42)

1. Workers who leave part-time work to accept full-time work usually leave for compelling personal reasons not attributable to the employer.
2. Workers who leave part-time work to accept full-time work when the hours and earnings have been reduced by the employer from full-time to part-time work, leave with good cause connected with the work.

D. Leaving full-time work to accept part-time work (V L 365.43)

1. A worker who leaves full-time work for part-time work merely because of a preference for part-time work leaves without good cause in connection with his work.
2. A worker who leaves full-time work for part-time work leaves for compelling personal reasons not attributable to his employer if:
 - a. It can be shown that personal circumstances or health reasons compelled the change; or
 - b. He quits unsuitable full-time work to accept part-time work for which he is qualified.

Historical Note

Former Rule number -- Voluntary Leaving 365. - 365.43. Former Rule repealed, new Section R6-3-50365 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-50366. Reserved thru**R6-3-50379. Reserved****R6-3-50380. Repealed****Historical Note**

Adopted effective October 2, 1981 (Supp. 81-5). Repealed effective December 9, 1982 (Supp. 82-6).

R6-3-50381. Reserved thru**R6-3-50384. Reserved****R6-3-50385. Repealed****Historical Note**

Former Rule number -- Voluntary Leaving 385. Former Rule repealed, new Section R6-3-50385 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-50386. Reserved thru**R6-3-50439. Reserved****R6-3-50440. Repealed****Historical Note**

Former Rule number - Voluntary Leaving 440. - 440.7. Former Rule repealed, new Section R6-3-50440 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-50441. Reserved thru**R6-3-50449. Reserved****R6-3-50450. Time (V L 450)****A. General (V L 450.05)**

1. As discussed in this section time refers to hours, or days of work, whether it be part time or full time, irregular or excessive, shift work or temporary work, and definite or indefinite dates.
2. When time is an issue it is advisable to obtain verification of exact hours, days or dates worked.
3. A worker who leaves his job for any reason involving time would be expected to attempt to adjust his grievance prior to leaving if such attempt was feasible.

B. Days of week (V L 450.1)

1. A worker may elect to leave his job because he objects to working a particular day or days of the week. Normally a worker will object to working on Saturday or Sunday because recreational and religious activities usually are centered on these days.
 - a. Objection to working Saturday or Sunday because of inconvenience does not constitute good cause for leaving unless it creates a work week which is excessive or interferes with activities determined to be compelling.
 - b. If a worker objects to working on Saturday or Sunday because of compelling religious reasons, his leaving will be for a compelling personal reason.
2. If a worker leaves because he is working only a limited number of days a week, he leaves without good cause unless his work schedule or the employer's stand-by requirements unreasonably interferes with a search for full time employment.

C. Hours (V L 450.15)

1. General (V L 450.151)
 - a. A worker who leaves because of a reasonable objection to his hours would leave with good cause in connection with his work.
 - b. Any legislation such as maximum hour provisions for certain individuals or occupations must be taken into consideration in the determination.
2. Irregular hours (V L 450.152)
 - a. A worker who leaves his job because his employer refuses his request for irregular hours generally

- leaves without good cause. If refusal of his request results in the worker having no reasonable alternative to leaving, his leaving will be for a compelling personal reason.
- b. When a worker is required by an employer to work irregular hours over an extended period of time and these hours unreasonably restrict his ability to maintain a normal private life, he leaves for good cause. Normally, leaving because of irregular hours that occur infrequently or for a short duration will result in a disqualification.
3. Long or short hours (V L 450.153)
 - a. Leaving work because of extended hours provides good cause for quitting if they are of indefinite or lengthy duration and unduly interfere with the worker's private life.
 - b. Leaving because of objection to short hours is normally disqualifying unless restrictions imposed by the employer prevent the worker from looking for full time work during his off duty hours.
 4. Night work (V L 450.154)
 - a. A worker who leaves because he is required to continue to work nights generally leaves without good cause. If he can establish that his working hours were adversely affecting his health or so restricting his domestic life that he had no reasonable alternative to leaving, his leaving will be for a compelling personal reason.
 - b. A worker who leaves because of insistence on night work normally would be disqualified. If he can establish that he had no reasonable alternative to night work, his leaving should be adjudicated under R6-3-5005. This type of restriction will usually also involve an availability issue.
 5. Prevailing standard (V L 450.155). A worker should not be disqualified for leaving work in which the hours are significantly in excess of the prevailing hours for similar work in the locality.
- D.** Irregular employment (V L 450.2). A worker who leaves his job because employment is irregular leaves without good cause if he can seek work during his time off. If a worker is in an isolated area which offers little or no prospects of full time work, and his hours have been substantially reduced, his leaving is for good cause if he leaves to seek work elsewhere.
- E.** Layoff imminent (V L 450.25). A worker who leaves a job prior to the effective date of a definite layoff leaves without good cause, if the layoff is the reason for leaving, unless he has a definite offer of new work.
- F.** Leave of absence or holiday (V L 450.3)
1. When a worker leaves a job because he is refused a leave of absence or time off from the job, the adjudicator must consider the urgency of the worker's request and the effect the absence would have on the employer. If the claimant establishes that he was compelled to take time off and was refused, his leaving is not disqualifying.
 2. A leaving because a worker was required to work on a particular holiday is disqualifying unless it is shown that he was discriminated against in the assignment of holiday work.
- G.** Overtime (V L 450.35)
1. The worker who quits his job because his employer refuses his request for overtime work leaves without good cause unless:
 - a. He can establish that the employer violated an agreement to provide him with overtime, or
 - b. He can establish that he has been discriminated against in the assignment of overtime work.
 2. Occasional overtime work at the request of the employer does not constitute good cause for quitting even though overtime wages are not paid. However, many employers are required by legislation to pay overtime rates for overtime worked. Their failure to do so would constitute good cause for leaving.
 3. Usually leaving because of required overtime, which is compensated for at overtime rates, is a disqualifying separation, unless it is shown that the overtime was discriminatory or unreasonable.
- H.** Part time work (V L 450.4). A worker who leaves part time work because of a desire to seek full time work leaves without good cause, unless the circumstances of the part time employment prevent him from seeking full time work during his non-working hours.
- I.** Shift work (V L 450.5). Leaving work because of an objection to working a particular shift is disqualifying unless it is shown that:
1. The employer discriminated against the worker in assigning the shift, or
 2. The worker is unable to work the shift for a compelling reason.

Historical Note

Former Rule number - Voluntary Leaving 450. - 450.5.
Former Rule repealed, new Section R6-3-50450 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 22, 1979 (Supp. 79-2).

R6.3-50451. Reserved thru**R6.3-50474. Reserved****R6.3-50475. Union relations (V L 475)**

- A.** Agreement with employer (V L 475.1). A Collective Bargaining Agreement is an agreement between employer(s) and an organized group of workers which covers reciprocally agreed conditions of work.
1. The violation of a Collective Bargaining Agreement by either the employer or employee except in cases involving application of the labor dispute disqualification provision under A.R.S. § 23-777 is merely a breach of an obligation to abide by the terms of the agreement.
 2. A violation of a bargaining agreement by an employer would not necessarily provide a worker with a good cause for leaving under the provisions of the Employment Security Law of Arizona. Good cause in connection with the work would be found if:
 - a. The employer's action caused or would cause the claimant to suffer a substantial hardship or possible physical injury; or
 - b. The claimant can establish that continuation of the employment would result in penalty by his union which would be detrimental to him in obtaining other work.
 3. Leaving work because of alleged violations of a bargaining agreement concerning wages, hours, or working conditions should be adjudicated under the appropriate section of these rules.
 4. In any case, failure by the claimant to attempt to adjust his grievance through the grievance procedure of his union would preclude a finding of good cause.
- B.** Refusal to join or retain membership in union (V L 475.6)
1. A worker who has separated from work because of his refusal to join or retain membership in a union in a state which does not have a "right-to-work" law will have left

work voluntarily without good cause in connection with the work when:

- a. He accepts employment with the understanding that he will be required to join a union and then refuses to comply with the agreement; or
 - b. He allows his membership in the union to lapse when his employment depended on his remaining in good standing in his union.
2. The above policy applies even if the employer is the one who informed the claimant that he was no longer employed.
 3. Under present statutes, rule R6-3-50475(B) does not apply to Arizona, which has a "right-to-work" law.

Historical Note

Former Rule number - Voluntary Leaving 475. - 475.6.
Former Rule repealed, new Section R6-3-50475 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-50476. Reserved thru

R6-3-50494. Reserved

R6-3-50495. Repealed

Historical Note

Former Rule number -- Voluntary Leaving 495. Former Rule repealed, new Section R6-3-50495 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-50496. Reserved

R6-3-50497. Reserved

R6-3-50498. Reserved

R6-3-50499. Reserved

R6-3-50500. Wages (V L 500)

A. General (V L 500.05)

1. A leaving because of dissatisfaction with wages usually involves one of the following situations. For a discussion of specific wage issues refer to the indicated section of these policy rules.
 - Agreement concerning wages (R6-3-50500(B))
 - Failure or refusal to pay (R6-3-50500(C))
 - Piece rate or commission basis (R6-3-50500(F))
 - Prevailing wage (R6-3-50500(G))
 - Reduction in rate of pay (R6-3-50500(H))
2. A worker is generally aware of the rate of pay prior to accepting a job. If he accepts employment at a specified wage, he cannot thereafter establish good cause for leaving because he becomes dissatisfied with his wages. This is true even though his rate of pay is substantially below prevailing for similar work. Good cause for leaving can be shown only if the rate of pay is below the legal minimum.
3. A worker who leaves because of dissatisfaction with his wage must make a reasonable effort to adjust his grievance prior to quitting in order to establish good cause.

B. Agreement concerning wages (V L 500.1)

1. An agreement concerning wages shall be considered to exist when a worker was informed about his rate of pay or failed to make an attempt to ascertain his wage rate when he accepted a job, and the worker is bound by the agreement. The wage agreement is no longer binding upon him, however, if the employer changes other conditions of employment sufficiently to constitute "new work". See R6-3-50315.

2. When an agreement concerning wages exists, a worker who leaves work solely because of dissatisfaction with the wage rate shall be disqualified for voluntarily leaving without good cause unless his rate of pay is below the legal minimum.
3. If the employer failed to inform the claimant of his rate of pay as requested at the time of hire, or the claimant is misinformed about his wage rate by an employment agency or agent, good cause for leaving may be established, if
 - a. The rate of pay makes the work unsuitable in accordance with R6-3-53500(B); and
 - b. He took action to adjust his grievance immediately upon learning the actual wage rate.
4. The employer's failure to abide by a wage agreement does not necessarily establish good cause for leaving work. See R6-3-50500.H.

C. Failure or refusal to pay (V L 500.3)

1. A claimant would have good cause for quitting if the facts clearly establish that his employer willfully refused to pay him wages that were actually due, provided that he first made a reasonable attempt to adjust his grievance.
2. A worker has the right to receive his wage in the proper amount and when due. It would be unreasonable to expect him to continue working unless he is reasonably certain of being paid for his services. Thus a claimant would leave with good cause connected with his work; when:
 - a. The employer is repeatedly late paying his wages;
 - b. The claimant is repeatedly paid with checks drawn on insufficient funds even if restitution is made.
3. Isolated instances of late payment of wages, or payment of wages with a bad check when prompt restitution is made will not establish good cause for leaving.
4. A worker who quits because his employer deducts certain amounts from his wages to cover shortages, breakages, etc., leaves without good cause connected with the work if such deductions were made pursuant to a prior agreement, even though the claimant may not be at fault, provided the size of the deduction is reasonable. It would be unreasonable for an agreement or contract to require a deduction greater than 25% of a claimant's net wages from a single paycheck.
5. In the absence of a prior agreement between the claimant and the employer permitting such deductions, leaving with good cause in connection with the work will depend upon whether the employer has acted reasonably. If the facts establish that the claimant is guilty of willful or culpable negligence in connection with the cash shortages or breakage which lead to the deduction, the employer is considered to have acted reasonably, provided the size of the deduction is reasonable. It would be unreasonable for an employer to deduct more than 25% of a claimant's net wages from a single paycheck.
6. For the purposes of this regulation, net wages means gross wages less mandatory deductions.
7. If the employer makes deductions for shortages or breakage not authorized by the prior agreement, and the facts do not establish that the claimant is guilty of either willfulness or negligence, a claimant would have good cause for quitting unless the employer had refunded the deduction.

- #### D. Increase refused (V L 500.4). A worker who quits solely because his employer has refused to grant him a pay increase leaves work voluntarily without good cause in connection with his employment, unless:

1. He had been assigned more responsible duties normally carrying a higher rate of pay for longer than a temporary short period of time; and
 2. He attempted to adjust his grievance before leaving.
- E.** Living or low wage (V L 500.45). When a claimant has left his employment because of low wages or because he contends his wages do not constitute a living wage, the adjudicator should give first consideration to the prevailing rate R6-3-50500(G), and if applicable to piece rate or commission R6-3-50500(F).
- F.** Piece rate or commission (V L 500.65)
1. In resolving separation issues for commission or piece rate worker's the adjudicator must determine whether the claimant left his job because he was personally unsuccessful, or because the employer's requirements or the conditions of work provided by the employer would have caused the average worker with proven ability to be unsuccessful.
 2. Generally, at the time of hire the employer will provide the commission or piece rate worker with a reasonable approximation of the amount of wages he can expect to earn while on the job. If the employer entices a worker to accept employment by quoting completely unrealistic potential earnings, or providing misleading wage information, and the worker's actual wages are disproportionately low, he would have good cause for leaving.
 3. An employer will be considered to have furnished misleading wage information when he indicates that the worker can expect to earn more than 10% in excess of the average wage of the other employees doing the same work on the same basis as the claimant.
 4. A worker's wages will be considered disproportionately low, if, after giving the work a fair trial, his average weekly earnings are substantially below the average weekly wage of his employer's other workers. The adjudicator will consider only those workers who did the same type of work and were paid on the same basis as the claimant. The period of time on which this average is based should as nearly as possible include a full cycle of the employer's business to avoid distortions created by seasonal fluctuations.
 5. The commission or piece rate worker would leave for compelling personal reasons not attributable to the employer; if
 - a. The employer provides the worker with a reasonable appraisal of the amount of wages he can expect to earn on the job but the worker's wages are disproportionately low because of personal inability to produce or sell; or
 - b. The employer did not discuss potential earnings with the worker before hire, or the adjudicator is unable to determine the approximate wages discussed, and his wages are disproportionately low.
 6. The worker leaves voluntarily without good cause when it is established that his low earnings are a result of his failure to:
 - a. Devote necessary time and effort to his work; or
 - b. Follow reasonable instructions of his employer; or
 - c. Give the work a fair trial.
 7. Determining if a worker devoted the necessary time and effort to a job or if he failed to follow reasonable instructions of his employer should not be unduly difficult. However, a determination as to whether a worker has given the work a "fair trial" is sometimes difficult. Several factors must be considered, such as:
 - a. Whether the claimant had actual or related experience in the type of work before accepting the job.
- Generally, the more extensive the prior experience, the shorter the time necessary to achieve success in the new job.
- b. The length of time required to attain proficiency, or to develop contacts or leads necessary to result in average earnings in the occupation. For example, selling appliances may require much less time in developing leads than selling insurance.
 - c. The financial strain which would have been created for the claimant had he attempted to continue. For example, 2 or 3 months with little or no income would create an impossible situation for many workers even though they might have achieved success within 6 months.
- G.** Prevailing wage (V L 500.7). A claimant who leaves work solely because his wage is below the prevailing wage shall be disqualified for voluntarily leaving without good cause in connection with the work if he agreed to the wage when he accepted the job unless his rate of pay is below the legal minimum.
- H.** Reduction in wages (V L 500.75)
1. General (V L 500.751). Under the ordinary employment relationship, there is neither an express nor implied agreement that the employer will not reduce wages.
 2. A claimant who quits solely because his wages were reduced shall be disqualified for leaving work voluntarily unless he attempted to adjust his grievance prior to leaving and:
 - a. The wage rate is reduced to an amount which is below the legal minimum, or which would make the work unsuitable in accordance with the refusal of work portion of these rules; or
 - b. The employer arbitrarily reduced the wages as a means of discriminating against the worker, even though the reduced wage is not below the prevailing rate. Arbitrarily reduced means the reduction was substantial or disproportionate and not generally applied.

Historical Note

Former Rule number -- Voluntary Leaving 500. - 500.751. Former Rule repealed, new Section R6-3-50500 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1).

R6-3-50501. Reserved**R6-3-50502. Reserved****R6-3-50503. Reserved****R6-3-50504. Reserved****R6-3-50505. Repealed****Historical Note**

Former Rule number -- Voluntary Leaving 505. Former Rule repealed, new Section R6-3-50505 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-50506. Reserved thru**R6-3-50514. Reserved****R6-3-50515. Working conditions (V L 515)****A.** General (V L 515.05)

1. The term "working conditions" includes all aspects of the employer-employee relationship, but in this Section it will be confined to environmental conditions such as light, sanitation, fellow-employees, etc.

2. A worker who leaves because of dissatisfaction with working conditions, must show that one or more of these conditions are substantially below those prevailing in the area for similar work. Mere dislike, distaste, or inconvenience created by small variations in working conditions will not establish good cause for leaving work. The determination generally will turn on a comparison of the claimant's actions with the degree of tolerance the normal worker would be expected to exercise before leaving under the same conditions.
 3. When an employer imposes unreasonable demands or working conditions which force a worker to terminate his employment, the worker would leave with good cause.
 4. Before good cause or a compelling personal reason for leaving can be established, a worker must have attempted to adjust his grievance prior to leaving unless such an attempt was not feasible.
- B. Apportionment of work (V L 515.2)**
1. An employer may reasonably alter or add to the job duties of an employee from time to time. Unless these changes render the work unsuitable, this is not good cause for leaving. Occasional emergency assignments do not establish good cause.
 2. Assignment of more work to one employee than another in the same classification does not in itself establish good cause for leaving. It may be good cause if:
 - a. The assignment is unreasonably difficult; or
 - b. The assignment of work was made on a discriminatory basis.
- C. Fellow employee (V L 515.4)**
1. A worker who leaves because of inharmonious relations with a fellow employee leaves with good cause if he is established that the conditions were so unpleasant that remaining at work would create an intolerable work situation for him.
 2. In determining whether a situation is intolerable, the following factors should be considered:
 - a. Would continued employment create a severe nervous strain or result in a physical altercation with the other employee?
 - b. Was the worker subjected to extreme verbal abuse or profanity? The importance of profane language as an adverse working condition varies in different types of work.
 3. A physical attack by a fellow-employee would be good cause for leaving if the claimant was clearly not at fault, unless the employer had taken reasonable steps to avoid a recurrence.
- D. Prevailing conditions for similar work in the area (V L 515.55)**
1. A worker who establishes that the actual conditions of his job were substantially below the prevailing standards in the area, leaves for good cause.
 2. It will often be difficult to compare conditions in one establishment against those prevailing in the area for similar work. The adjudicator, in making his determination, may want to refer to such information as:
 - union contracts
 - state or federal law
 - public health regulations
 3. If the conditions are not substandard, but yet create an undue hardship on the individual worker, he leaves for a compelling personal reason not attributable to the employer.
- E. Production requirement or quantity of duties (V L 515.6)**
1. A worker who leaves because of the employer's production requirements leaves without good cause if these requirements are reasonable. The following factors should be considered in determining reasonableness:
 - a. Are the production requirements creating a condition substantially below those prevailing in the area?
 - b. Are the requirements reflected equitably in the worker's wages?
 - c. Are the requirements discriminatory? See R6-3-50515(B).
 2. When a worker who leaves because he cannot, for some personal reason, meet an employer's work requirements, the adjudicator must consider the appropriate section of these rules relating to his specific reason for leaving.
- F. Supervisor (V L 515.8).** When a worker leaves his job for any reason involving his relations with a supervisor, the adjudicator will apply the same considerations that apply to relations with a fellow employee; see R6-3-50515(C).

Historical Note

Former Rule number -- Voluntary Leaving 515. - 515.8.
 Former Rule repealed, new Section R6-3-50515 adopted effective January 24, 1977 (Supp. 77-1).

ARTICLE 51. DISCHARGE BENEFIT POLICY**R6-3-5101. Reserved****R6-3-5102. Reserved****R6-3-5103. Reserved****R6-3-5104. Reserved****R6-3-5105. General****A. Misconduct.**

1. Misconduct sufficient to disqualify a claimant from receipt of unemployment insurance benefits pursuant to A.R.S. § 23-775(2), must be an act of wanton or willful disregard of the employer's interest, a deliberate violation of the employer's rules, a disregard of standards of behavior which the employer has the right to expect of an employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or evil design, or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer.
2. A claimant need not have actually acted with intent to wrong the employer to result in a finding of misconduct connected with the work. Misconduct may be established if there is indifference to and neglect of the duties required of the worker by the contract of employment, or a violation of any material lawful duty required under the employment contract when such duty is expressed or impliedly set forth to the worker and the facts show that the worker should have reasonably been able to avoid the situation which brought about the discharge.
3. In determining whether the worker would be expected to have avoided the situation which caused the discharge, consideration should be given to the worker's knowledge of the worker's responsibilities through past experience, explanations, warnings, etc. The materiality of a duty and the materiality of the breach of such duty should be evaluated in the light of what is customary in the type of business in which the claimant was employed.

B. Separation for compelling personal reasons not attributable to the employer

1. A separation from work for compelling personal reasons is usually restricted to the circumstances which have no direct relation to a worker's employment and usually occurs when a claimant quits employment for a cause beyond the claimant's control. However, under the cir-

cumstances set forth in subsection (B)(2) below, a compelling personal reason determination may be made where the employer acted to discharge the claimant.

2. A determination that the claimant was discharged for a compelling personal reason must establish that:
 - a. The employer had no reasonable alternative but to discharge the claimant; and
 - b. One or more of the following circumstances is present:
 - i. The claimant is discharged because of an absence due to incarceration which is determined not to be misconduct under R6-3-5115(E)(1);
 - ii. The claimant is discharged because of a physical or mental condition which might have endangered the claimant's own safety on the job or the safety of others, for example: epilepsy, active tuberculosis, etc.; or
 - iii. The claimant is discharged because the claimant was unable to properly perform the work due to a physical or mental condition; or
 - iv. The claimant is discharged because the employer has entered into an agreement with another party, other than the claimant, which would result in a violation by the employer of a federal or state law if the claimant is retained in employment.
3. For definitions of "compelling", "personal reasons", and "attributable to the employer", refer to Voluntary Leaving, R6-3-5005(C).

Historical Note

Former Rule number Misconduct 5. - 5.1. Former Rule repealed, new Section R6-3-5105 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended subsection (B)(1), (2), and (3) effective July 24, 1980 (Supp. 80-4). Amended subsection (A) effective February 24, 1982 (Supp. 82-1). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-5106. Reserved thru

R6-3-5114. Reserved

R6-3-5115. Absence (Misconduct 15)

A. General (Misconduct 15.05)

1. Implicit in the work relationship is the duty of the employee to report for work and remain at work in accordance with the reasonable requirements of his employer. This duty is not absolute, but is qualified by circumstances relative to the situation of both employee and employer. In determining if a claimant's absence from work is a disregard of his employer's interest due regard must be accorded to the customs and conditions of work.
2. If it is customary for employees where the claimant worked to take a day off without pay, a claimant who does so and is discharged is not deemed to have been discharged for misconduct unless the circumstances indicate that he could reasonably have known that his employer would be injured by his absence.
3. When a claimant is discharged for not appearing at work on a day when he customarily does not work, his dismissal is generally for reasons other than misconduct.

4. An exception to the general rules of absence is the discharge of a claimant because of an absence due to incarceration for a first offense. Refer to R6-3-5115(E), "Absence due to incarceration."

B. Notice (Misconduct 15.1)

1. Generally, a claimant's failure to give proper notice of his absence from work in time to permit the employer to make such arrangements as he deems necessary to replace him is tantamount to misconduct connected with the work. However, inability to notify usually justifies a failure to give notice. If the claimant made all reasonable efforts to reach his employer, but could not, failure to give notice is not misconduct.
2. The practices of the employing establishment should be considered in determining what constitutes adequate notice. Absences for causes beyond the claimant's control may be misconduct if the facts establish that notice could have been given and the employer was inconvenienced, not because of the absence, but because of the lack of notice. A claimant's absence from work for causes beyond his control with proper notice at the earliest opportunity is not misconduct. In certain instances notice of absence is unnecessary or waived such as:
 - a. When the employer has independent knowledge of the claimant's inability to be at work; or
 - b. When it has been established by custom that notice is unnecessary; or
 - c. When a claimant is the recipient of a severe shock such as the death of a member of his family.
3. Discharge because of failure to provide notice of absence due to incarceration should be adjudicated in accordance with rule R6-3-5115(E).

C. Permission (Misconduct 15.15)

1. It is reasonable for employer(s) to require that their employees request permission to be absent from work when such absence may be anticipated. A prudent worker will normally request permission and will not take time off when his request is refused.
2. When a claimant is denied permission for an impending absence from work and is absent- despite the employer's refusal, the necessity for the absence and his employer's reason for not granting permission must be weighed. The claimant's separation from work under such circumstances would be considered misconduct connected with his work; unless
 - a. The employer has denied a legitimate leave request without valid reason; or
 - b. The claimant would suffer serious detriment if he did not take time off work; or
 - c. The claimant was absent for a compelling personal reason.
3. Failure of a claimant to request permission for an anticipated absence does not of itself constitute misconduct. Such cases should be evaluated in accordance with R6-3-5115(B), "Notice" and R6-3-5115(D), "Reasons for absence."

D. Reasons for absence (Misconduct 15.2)

1. A claimant who is discharged due to absences beyond his control such as illness, accident, unavoidable delay in transportation, urgent domestic responsibilities and the like is discharged for reasons other than misconduct. Even repeated absences for these causes are not deemed to be misconduct if the facts indicate the absence could not have been avoided. However, failure to give notice of such absences may constitute misconduct. Failure to give notice is discussed in R6-3-5115(B), "Notice."

2. Absence from work due to reasonably pressing domestic circumstances is not misconduct when proper notice is given. For example: serious illness or death of a close relative is deemed of such pressing circumstances as to justify the absence.
3. A claimant's discharge is considered to be for misconduct connected with his work when he is discharged because of an absence from work; when
 - a. He is absent for a capricious reason; or
 - b. He is absent for causes he does not substantiate, or gives no excuse for; or
 - c. He is absent from work due to intoxication.
- E. Absence due to incarceration (Misconduct 15.25)**
 1. A discharge for absence due to incarceration is disqualifying when:
 - a. The claimant did not properly notify, or failed to make a reasonable effort to properly notify the employer of his absence; or
 - b. The evidence clearly indicates that the claimant could have avoided his incarceration by the payment of a fine; or
 - c. The claimant was incarcerated for a second time while working for his last employer; or
 - d. The claimant was confined for a period in excess of 24 hours, and the available evidence tends to establish that he committed the offense for which he was confined.
 2. A claimant who is discharged because of an absence or failure to give notice due to incarceration is separated from work for a compelling personal reason not attributable to his employer when the separation is determined not to be misconduct under rule R6-3-5115(E)(1).
 3. If a claimant was discharged because of the offense which caused his incarceration the determination should be based on rule R6-3-51490, "Violation of law".

Historical Note

Former Rule number Misconduct 15. - 15.25. Former Rule repealed, new Section R6-3-5115 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective August 3, 1978 (Supp. 78-4). Amended subsection (E)(2) effective July 24, 1980 (Supp. 80-4).

R6-3-5116. Reserved thru

R6-3-5144. Reserved

R6-3-5145. Attitude toward employer (Misconduct 45)

A. General (Misconduct 45.05)

1. In order for an act by a worker to be considered misconduct, it must be established that the results of the act had, or could have had, an adverse affect on the employer's interests.
2. When a rule or standard of conduct normally applied in all employment relationships is violated, misconduct can be presumed but not established in every case. This would include matters involving prompt and regular attendance, dishonesty, violation of law, etc.
3. To establish misconduct the act must have adversely affected the employer in his capacity as an employer and not as a private individual. Thus, if the worker is discharged because of an off-duty incident involving the employer and the interest of the employer adversely affected is not related to his position as an employer the claimant is discharged for reasons other than misconduct.
4. In order for misconduct to be established the employer need not have actually suffered damage as a result of the

worker's act, the potentiality for damage must also be considered. In many cases it may be established that his interests could have been adversely affected by the commission or omission of the act.

5. In cases where a disregard of an implied obligation results in dismissal the adjudicator should consider any warnings the worker may have received for the same or similar violations since they draw the worker's attention to that which is expected.

B. Agitation or criticism (Misconduct 45.1)

1. When a worker expresses dissatisfaction with his employer or stirs up resentment against his employer, the conditions under which the action occurs and the worker's reason for taking such action will determine whether misconduct connected with the work is established.
2. Individual or group expressions of dissatisfaction with wages or other working conditions, or attempts to organize other workers to express such dissatisfaction, are not misconduct when made in a manner that does not jeopardize the employer's business. Generally, when such actions are taken outside working hours and remain within the boundaries of reasonableness, misconduct will not be found.
3. When a worker creates or expresses dissatisfaction, discontent, or resentment toward his employer for purposes other than to remedy problems, or improve working conditions, there is a strong indication of misconduct.
4. Misconduct may be found in the actions of a worker whose unreasonable agitation or criticism stemmed from an intent to resolve grievances or to improve work conditions when such actions result in insubordination, material neglect of duties, etc.

C. Competing with employer or aiding competitor (Misconduct 45.15)

1. A worker who is discharged for engaging in a business, whether or not it is his own, that is in competition with the employer is discharged for disqualifying reasons. Even though he may be performing the work on his own time, if it is work which could have been performed by the employer, his actions are a disregard of the employer's interests.
2. Misconduct may be indicated when an employee recommends a competitor of his employer to a customer who desires a service or product the employer can furnish.
3. If an employer has an established rule which prohibits salesmen from carrying a competing line of merchandise, violation of such rule constitutes misconduct.

D. Damage to equipment or materials (Misconduct 45.25)

1. If a worker causes damage to, or creates a situation of potential damages to an employer's property, equipment or materials through indifference or carelessness, misconduct may be established.
2. While minor instances of carelessness or negligence may not amount to indifference, repetition, especially after warning(s) establishes a disregard of the employer's interest and constitutes misconduct connected with the work. For a further discussion of negligence and accidents see R6-3-51300 and R6-3-51310.

E. Disloyalty (Misconduct 45.3)

F. Disloyalty to employer (Misconduct 45.31)

1. Disloyalty is misconduct when manifested by acts or omissions by a worker which establish a breach or the obligations owed his employer.
2. Conspiring with fellow employees or others to cause damage or loss or ignoring a duty to act to prohibit loss or

dam age to the employer is disloyalty and is disqualifying.

3. Knowingly, speaking or demonstrating against the employer's product(s) or operation in a manner which could adversely affect the confidence of customers or damage the reputation of the employer constitutes a disregard of the employer's interest.

G. Security clearance (Misconduct 45.32). A worker discharged because he cannot be cleared by the employer for access to classified security information which is required for the job is deemed to have been discharged for misconduct connected with the work if he knew or could reasonably be expected to know that clearance would be required and intentionally gave false or misleading information, or knowingly failed to disclose information that might affect his security clearance.

H. Indifference (Misconduct 45.35)

1. Normally a worker's lack of interest in the plans, purpose, or goals of his employer is not misconduct if the worker performs his own duties in a generally satisfactory manner.
2. A worker who is discharged because he is not interested in or is considered not suited for promotion is not discharged for misconduct.
3. Isolated acts of inefficiency, inability, errors in judgment or discretion, as well as single acts of ordinary negligence, do not establish indifference to a degree that warrants a finding of misconduct. Only when such indifference amounts to a serious neglect of the duties and responsibilities assigned to the worker would misconduct be indicated. In determining when neglect shows a degree of indifference warranting disqualification, the nature of the neglect, the number of instances of neglect, the worker's understanding of his duties as pointed out through expressed rules, warnings, etc., must be considered. See R6-3-51310.

I. Injury to employer through relations with patron (Misconduct 45.4)

1. It is of unusual importance to employers, who rely on public acceptance of their products or service, to have their employees serve the public in such a manner that the customer is pleased.
2. It should be remembered, however, that in constantly dealing with the public, some friction will occur. Although an employer may well adopt the attitude that in such frictional situations the customer is always right, this is not necessarily so. Thus, an employee discharged because of some disagreement with a customer, is generally not to be disqualified unless he has allowed himself to act out of all proportion to the cause of the dispute.

Historical Note

Former Rule number Misconduct 45. - 45.4. Former Rule repealed, new Section R6-3-5145 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5146. Reserved thru

R6-3-5184. Reserved

R6-3-5185. Connected with work (Misconduct 85)

- A.** A disqualification for misconduct is assessed only when a claimant's discharge is determined to be in "connection with the work." Any action by a worker in the course of his duties, or committed on the employer's premises during working hours is connected with the work.
- B.** Generally, what a worker does when he is off work is of no concern to the employer and the employer has no basis for

holding him accountable for his off-duty conduct. However, when a worker's off-duty conduct bears such a relationship to his job as to render him unsuitable to continue in his job because of the adverse affect it would have on the employer's operation, such off-duty action would be connected with the work.

- C.** If an employee's duties and responsibilities are such that his actions while off-duty may adversely affect the reputation, public trust, or confidence on which his employer's business is dependent his off-duty misconduct may be connected with the work.

D. Adjudicators should refer to the following sections of the Policy rules for guidance on specific off-duty conduct issues:

Absence due to incarceration	R6-3-5115(E)
Intoxicants and use of intoxicants	R6-3-51270
Garnishment	R6-3-51485(B)
Violation of law	R6-3-51490

Historical Note

Former Rule number Misconduct 85. Former Rule repealed, new Section R6-3-5185 adopted effective January 24, 1977 (Supp. 77-1). Amended subsection (D) effective July 9, 1980 (Supp. 80-4).

R6-3-5186. Reserved thru

R6-3-51134. Reserved

R6-3-51135. Repealed

Historical Note

Former Rule number Misconduct 135. - 135.35. Former Rule repealed, new Section R6-3-51135 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-51136. Reserved

R6-3-51137. Reserved

R6-3-51138. Reserved

R6-3-51139. Reserved

R6-3-51140. Misappropriation of Funds; Falsification of Employment Records

A. Cash shortage or misappropriation (Misconduct 140.15)

1. To determine whether a claimant's misappropriation of company funds is misconduct which will disqualify the claimant from receipt of unemployment benefits, the Department shall consider the employer's practices regarding the handling of funds and whether the claimant knew that the claimant was misappropriating funds.
2. A claimant who is discharged for knowingly misappropriating company funds is discharged for misconduct connected with employment.
3. A claimant who retains funds to which the claimant honestly believes the claimant, is entitled, and makes adjustment or restitution upon notification, is discharged for reasons other than misconduct.

B. Falsification of records. A claimant who is discharged for falsification of an employment application or for falsification of a written document related to the claimant's obtaining or retaining employment is discharged for misconduct related to employment when the available evidence establishes that the falsification was or is:

1. Material to the claimant's ability to obtain, retain, or perform the job; and
2. Of such a nature as to adversely affect a material or substantial interest of the employer.

Historical Note

Former Rule number Misconduct 140. - 140.25. Former Rule repealed, new Section R6-3-51140 adopted effective January 24, 1977 (Supp. 77-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective December 20, 1995 (Supp. 95-4).

R5-3-51141. Reserved thru**R6-3-51189. Reserved****R6-3-51190. Evidence (Misconduct 190)****A. General (Misconduct 190.05)**

1. Evidence is that which furnishes any mode of proof or that which is submitted as a means of learning the truth of any alleged matter of fact. This evidence is usually in the form of oral or written statements of a claimant, employer, or witnesses. The adjudicator must obtain all pertinent evidence reasonably available to make a non-monetary determination.
2. A claimant or employer statement written and signed by him is valuable as evidence. Documentary evidence, such as physician's statements or union by-laws and contracts, is often significant. Such evidence should be fully identified and proved authentic in order to have evidential weight.
3. From the standpoint of logic, evidence which does not tend to establish a fact should not be considered in determining the truth of that fact.

B. Burden of proof and presumption (Misconduct 190.1)

1. The burden of proof consists of the requirement to submit evidence of such nature that, taking all other circumstances into account, the facts alleged appear to be true. When this burden has been met, the evidence becomes proof.
2. The burden of proof rests upon the individual who makes a statement.
 - a. If a statement is denied by another party, and not supported by other evidence, it cannot be presumed to be true.
 - b. When a discharge has been established, the burden of proof rests on the employer to show that it was for disqualifying reasons. This burden may be discharged by an admission by the claimant, or his failure or refusal to deny the charge when faced with it.
 - c. An employer who discharges a worker and charges misconduct but refuses or fails to bring forth any evidence to dispute a denial by the claimant does not discharge the burden of proof. It is important to keep in mind that mere allegations of misconduct are not sufficient to sustain such a charge.

C. Weight and sufficiency (Misconduct 190.15)

1. Evidence must be evaluated during the course of adjudication to determine whether it is sufficient to make a decision. Sufficiency is reached when further rebuttal or circumstantial evidence will not alter the conclusions of the adjudicator.
2. When sufficient evidence has been obtained, all the facts available must be weighed. Only relevant evidence can be considered.
 - a. Unsupported oral statements may be outweighed by documentary evidence from disinterested third parties.

- b. Specific detailed facts must be given more credence than general statements.
 - c. Credible testimony of an eye witness must be given more weight than hearsay statements.
3. When the evidence, in its entirety, is evenly balanced, or weighs in favor of the claimant, misconduct has not been established and no disqualification is in order. When there is conflicting evidence, but the adjudicator concludes that the weight of evidence supports the employer's allegations, he should hold that the claimant was discharged for misconduct.

Historical Note

Former Rule number Misconduct 190. - 190.15. Former Rule repealed, new Section R6-3-51190 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51191. Reserved thru**R6-3-51234. Reserved****R6-3-51235. Health or physical condition (Misconduct 235)**

Pregnancy (Misconduct 235.4). A discharge for pregnancy is never disqualifying, but under certain conditions may be for compelling personal reasons not attributable to the employer. See R6-3-5105(B).

Historical Note

Former Rule number Misconduct 235. - 235.4. Former Rule repealed, new Section R6-3-51235 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective July 24, 1980 (Supp. 80-4). Typographical error corrected (Supp. 97-3).

R6-3-51236. Reserved thru**R6-3-51254. Reserved****R6-3-51255. Insubordination (Misconduct 255)****A. General (Misconduct 255.05)**

1. An employer has the right to expect that reasonable orders, given in a civil manner, will be followed and that a supervisor's authority will be respected and not undermined. There is no precise rule by which to judge when a dispute with a supervisor constitutes insubordination if insolence, profanity, or threats are not involved. The pertinent overall consideration is whether the worker acted reasonably in view of all the circumstances. Some examples of insubordination are:
 - a. Refusal to follow reasonable and proper instructions; or
 - b. Insolence in actions or language, profanity, or threats toward a supervisor without due provocation; or
 - c. Refusal to accept assignment to suitable work.
2. Incompatibility with a supervisor does not of itself constitute insubordination, neither does an employee's emphatic insistence on discussing the situation if he is acting in good faith. Misconduct may exist if the worker resorts to hot-tempered remarks, threats, or insolence, without due provocation.

Historical Note

Former Rule number Misconduct 255. - 255.05. Former Rule repealed, new Section R6-3-51255 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51256. Reserved thru**R6-3-51269. Reserved**

R6-3-51270. Intoxication and use of intoxicants (Misconduct 270)

- A. When a claimant is discharged for drinking intoxicating liquor, or using illegal drugs at work, or reporting to work, or coming on the employer's premises under the influence of intoxicants, a disregard of the employer's interest may be established.
- B. A discharge for intoxication off the job is not disqualifying unless it can be shown that a claimant's off-duty intoxication is connected with his work. See R6-3-5185.
- C. Absences or tardiness caused by off-duty intoxication or its after effects are usually considered to be for capricious reasons and should be adjudicated in accordance with R6-3-5115(C) and R6-3-5115(D).
- D. Inefficiency caused by the off-duty use of intoxicants may be misconduct, and should be treated the same as any other charge of inefficiency caused by actions within the control of the claimant. See R6-3-51300.

Historical Note

Former Rule number Misconduct 270. Former Rule repealed, new Section R6-3-51270 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51271. Reserved thru**R6-3-51299. Reserved****R6-3-51300. Manner of performing work (Misconduct 300)****A. General (Misconduct 300.05)**

- 1. A worker has the implied duty of performing his work with ordinary care and diligence and of making reasonable efforts to live up to such standards of performance as are required by his employer. Misconduct generally arises when a worker knowingly fails to exercise ordinary care in the performance of his duties.
- 2. "Ordinary care" means that degree of care which persons of ordinary prudence are accustomed to exercise under the same or similar circumstances, having due regard to his or others' rights and safety and to the objectives of the employer. This standard is general and application will vary with the circumstances. For example, the ordinary care expected of a precision engineer will vary considerably from the care expected of a ditch digger. The accepted standard of performance establishes what is ordinary care.
- 3. This does not mean that every claimant discharged because of unsatisfactory work performance is subject to disqualification. In the absence of gross carelessness or negligence, or recurrence of ordinary carelessness or negligence, the claimant's failure to perform his work properly is presumed to be attributed to good faith error in judgment, inability, incapacity, inadvertence, etc. A conscientious employee may be unable to perform his duties to the satisfaction of his employer because of limited mental capacity, inexperience, or lack of coordination. If such person is discharged for unsatisfactory work his discharge is not for misconduct.

B. Accident (Misconduct 300.1)

- 1. Accident is defined as "an event that takes place without one's foresight or expectation." A worker is expected to exercise that degree of ordinary care in proportion to the danger(s) inherent in the activity in which he is engaged.
- 2. When a worker fails to exercise ordinary care and an accident occurs, it establishes his negligence. The degree of negligence will determine whether there is misconduct. In determining the degree of negligence, the following should be considered:

- a. The worker's knowledge of the potential seriousness of damage that could result from his negligence.
- b. Whether he had been previously warned against negligent behavior which contributed to the final accident.
- c. Pressure under which the worker had to make decisions which contributed to the accident.
- d. Possibility for the claimant to have avoided the accident.
- e. Extent to which other responsible persons contributed to the accident.

Historical Note

Former Rule number Misconduct 300. - 300.1. Former Rule repealed, new Section R6-3-51300 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51301. Reserved thru**R6-3-51309. Reserved****R6-3-51310. Neglect of duty (Misconduct 310)****A. Duties not discharged (Misconduct 310.1)**

- 1. When an employee is given certain tasks to do, an employer may expect that such duties will be performed in accordance with the ability of the worker. Failure to complete assigned work will be considered the same as improper completion of work. The reason(s) for the non-performance or improper performance will determine whether there was misconduct.
- 2. A worker discharged for failing to do work which he could reasonably have been able to do or who does work improperly without reasonable excuse, is discharged for misconduct. Important considerations are:
 - a. The worker's knowledge and understanding of his responsibilities, and
 - b. The extent of his opportunity and ability to do his work properly.

B. Personal comfort and convenience (Misconduct 310.15)

- 1. Loafing, as distinguished from inability to maintain a production requirement, must be considered in the light of the employee's past record and previous warnings.
- 2. Sleeping on the job is generally considered to be misconduct connected with the work. However, sleeping on the job may not establish misconduct, such as when:
 - a. The claimant's sleeping was caused by an unusual circumstance, such as a lengthy period of work; or
 - b. Drowsiness induced by medically prescribed drugs.

C. Temporary cessation of work (Misconduct 310.2)

- 1. Unauthorized cessation of work, for reasons within the control of the employee, and for inadequate cause, is considered misconduct connected with the work.
- 2. Employees need certain personal time during working hours. Temporary cessation of work for such purposes is generally not misconduct. However, failure to follow rules and procedures concerning leaving work area may be misconduct. The reasonableness of the worker's action under the specific circumstances will determine whether the act is misconduct.

Historical Note

Former Rule number Misconduct 310. - 310.2. Former Rule repealed, new Section R6-3-51310 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51311. Reserved thru**R6-3-51344. Reserved**

R6-3-51345. Retirement

- A. A worker who has no alternative to retiring or leaving employment to accept a pension, because of a requirement imposed by the worker's employer or a collective bargaining agreement, is discharged for nondisqualifying reasons when:
1. The collective bargaining agreement under which the worker is employed mandates the worker's retirement at a specified age,
 2. The employer has a rule mandating retirement at a specified age, or
 3. The employer notifies the worker that the worker has no choice but to accept retirement.
- B. The Department shall determine the employer's chargeability for benefits in accordance with A.R.S. § 23-727 and A.A.C. R6-3-1708.

Historical Note

Former Rule number Misconduct 345. Former Rule repealed, new Section R6-3-51345 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-51346. Reserved thru**R6-3-51384. Reserved****R6-3-51385. Relation of offense to discharge (Misconduct 385)**

- A. Before a disqualification for a discharge for misconduct may be applied, the worker must have committed an act(s) of misconduct connected with his work and he must have been discharged for such act(s).
- B. Generally, only the employer can state authoritatively the reasons for the worker's dismissal. If the discharge does not follow the commission of misconduct in a prompt and reasonable sequence of events, the burden falls on the employer to establish the causal relationship. When an unreasonable length of time has elapsed between the commission of the act and the discharge, the employer has in effect condoned the act, and the subsequent discharge is not for work-connected misconduct.

Historical Note

Former Rule number Misconduct 385. Former Rule repealed, new Section R6-3-51385 adopted effective January 24, 1977 (Supp. 77-1). Amended effective April 6, 1979 (Supp. 79-2).

R6-3-51386. Reserved**R6-3-51387. Reserved****R6-3-51388. Reserved****R6-3-51389. Reserved****R6-3-51390. Relations with fellow employees (Misconduct 390)**

- A. General (Misconduct 390.05). An employer has the right to expect that his employees will not conduct themselves toward each other in such manner as to interfere unduly with the routine or efficient conduct of his business. Temperamental inability to get along with fellow employees is not deemed to be misconduct connected with the work. Only when incompatibility manifests itself in an overt act which could impair the efficiency of operations, or could result in injury to the employer's interest may it be deemed misconduct.
- B. Abusive or profane language (Misconduct 390.1)
1. The use of abusive or profane language may be work connected misconduct depending upon the circumstances. If the employment is of a nature that the use of such language interferes with the proper routine of the employer's business, misconduct exists as there is a violation of the employee's duty to the employer.

2. At some work sites mildly abusive and profane language are accepted as normal standards of behavior. The use of such language in those employment situations does not constitute misconduct. Only when it is used in such a beligerent or vociferous manner that there is interference with good order and discipline at the establishment can misconduct be established.
 3. The occasional use of profanity is not misconduct unless it leads to dissatisfaction and discord among employees, and the employer had previously warned against its use.
- C. Altercation or assault (Misconduct 390.2). Fighting with a fellow employee on the employer's premises is generally considered to be misconduct connected with the work. However, if the claimant is acting in self-defense or the evidence indicates that the fault and first blow or attempted assault rests with the other employee, the claimant is not deemed to have committed an act of misconduct connected with the work.
- D. Annoyance of fellow employee (Misconduct 390.25)
1. If an individual molests, knowingly irritates, or otherwise annoys his fellow employees during working hours, he shall be considered to have committed an act of misconduct connected with the work unless the disagreeable situation resulted from good faith actions or in connection with the worker's responsibilities.
 2. Ordinary bickering with or "baiting" a fellow employee generally is not deemed misconduct conducted with the work unless it becomes potentially harmful to the employer and the worker has been made aware through general rules or warnings that he must avoid or discontinue such action(s).

Historical Note

Former Rule number Misconduct 390. - 390.25. Former Rule repealed, new Section R6-3-51390 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51391. Reserved thru**R6-3-51434. Reserved****R6-3-51435. Tardiness (Misconduct 435)**

- A. The duty to report to work on time is similar to the duty to be present for work. The responsibility for punctuality is expressed or implied in the contract of employment.
- B. The degree of responsibility may vary in proportion to the potential harm to the employer and to the degree of control the worker had over his tardiness. Late arrival due to unavoidable delay in transportation, emergency situations, or causes not within the claimant's control is not misconduct. Unnecessary delay in arrival beyond the time that the worker should have been able to get to work after considering his reason for delay may constitute misconduct.
- C. An isolated instance of tardiness usually is not misconduct. However, when an employee has special responsibilities such as opening an establishment, furnishing power and heat for others and the like, his failure to exercise a high degree of concern for punctuality may amount to misconduct. In the absence of pressing responsibilities, misconduct may be found in repetition of tardiness caused by the worker's failure to exercise due care for punctuality.

Historical Note

Former Rule number Misconduct 435. Former Rule repealed, new Section R6-3-51435 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51436. Reserved thru**R6-3-51474. Reserved**

R6-3-51475. Union relations (Misconduct 475)

- A.** Membership or activity in union (Misconduct 475.5). Union activity except as hereinafter specified does not constitute an intentional breach of a worker's obligation toward his employer, nor may it be construed as disregard of the employer's interest. Membership in a union, agitation for unionization, or support of a union are not acts of misconduct in themselves. A worker who is discharged for joining a union is not discharged for misconduct connected with his work. This is generally also true of a worker dismissed because of union activity. However, when the union activities violate a known and reasonable company rule such as unauthorized solicitation of membership, or collection of dues and the like on company time or premises, a discharge for that reason is usually for misconduct connected with the work.
- B.** Refusal to join or retain membership in union (Misconduct 475.6)
1. The Constitution of Arizona provides: "No person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, nor shall the state or any subdivision thereof, or any corporation, individual or association enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor organization." In accordance therewith, a worker who is discharged in Arizona or in another state having a "right to work" law because of refusal to pay union initiation fees or membership dues, is discharged for a reason other than misconduct connected with the work.
 2. If the worker is discharged from employment in a state which does not have a "right to work" law, refer to R6-3-50475(B).

Historical Note

Former Rule number Misconduct 475. -475.6. Former Rule repealed, new Section R6-3-51475 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 19, 1979 (Supp. 79-2).

**R6-3-51476. Reserved
thru****R6-3-51484. Reserved****R6-3-51485. Violation of company rule (Misconduct 485)**

- A.** General (Misconduct 485.05)
1. An employee, discharged for violating a company rule, generally is considered discharged for misconduct connected with the work. This principle is based on the theory that when hired, an employee agrees to abide by the rules of his employer. This section covers rules peculiar to a particular employer, and not rules constituting the general code of industrial misconduct. In order for misconduct connected with the work to be found, it must be determined that the claimant knew "or should have known" of the rule and that the rule is reasonable and uniformly enforced.
 2. Recognition must be accorded to the type of business in which the employer is engaged and other surrounding circumstances. The rule must be reasonable in light of public policy and should not constitute an infringement upon the recognized rights and privileges of workers as individuals. Rules to affect the employee's conduct outside the employer's premises and which could not reasonably affect the employer's interests are generally considered unreasonable.
- B.** Garnishment, assignment of wages, or failure to meet financial obligation (Misconduct 485.6)

1. Effective July 1, 1970, the Consumer Credit Protection Act prohibits an employer from discharging an employee on the ground that the employee's wages were subjected to garnishment for any one indebtedness (U.S.C.A. 15-1671, et seq.). A discharge in violation of this law is not disqualifying.
 - a. "Garnishment for a single indebtedness" would include all garnishments taken to collect one debt and relates only to a garnishment action taken during employment with one employer.
 - b. Questions as to whether continuing or revolving accounts and other similar debt making processes constitute a single indebtedness should be directed to any office of the Wage and Hour Division of the Department of Labor, the organization charged with enforcement of this law.
 2. When a worker is separated for a garnishment on other than a first indebtedness, misconduct may be established when the worker had received prior warning that discharge might result from such garnishment and:
 - a. He incurred the subsequent indebtedness through nonessential purchases, or
 - b. He failed to make a reasonable effort to pay for essential purchases when financially capable or make a reasonable effort to forestall garnishment on an essential purchase when not financially able to pay.
- C.** Motor vehicle (Misconduct 485.65). A claimant discharged for violating a company rule regarding the operation of a motor vehicle, is discharged for misconduct connected with the work when it appears that the violation of the company rule did, or could have reasonably been expected to, adversely affect the employer's interests. See R6-3-51490 regarding violation of law in connection with motor vehicles.
- D.** Safety regulations (Misconduct 485.8). A worker who is discharged for violation of a safety rule almost always is determined to be discharged for misconduct connected with the work. It is only when a rule is petty, unknown to the workers, previously has been unenforced, or is violated unwittingly that misconduct is not found. In considering cases involving such situations, the extent of the hazard presented by the violation of the rule, and the care which the claimant exercised, are to be considered.

Historical Note

Former rule number Misconduct 485. - 485.8. Former rule repealed, new Section R6-3-51485 adopted effective January 24, 1977 (Supp. 77-1). Amended effective November 7, 1979 (Supp. 79-6).

R6-3-51486. Reserved**R6-3-51487. Reserved****R6-3-51488. Reserved****R6-3-51489. Reserved****R6-3-51490. Violation of law (Misconduct 490)****General (Misconduct 490.05)**

1. A worker discharged from employment because of an alleged violation of a public law or rule shall be found to have been discharged for misconduct provided a preponderance of evidence establishes that:
 - a. The act(s) amounted to misconduct connected with the work (see R6-3-5185), and
 - b. The worker committed the act(s) alleged.
2. The allegation, arrest, charge, information or indictment is not evidence that the worker committed the alleged violation of public law or rule.

3. A felony offense connected with the work is misconduct. A misdemeanor offense or a violation of a public rule which has the potential to substantially and adversely affect the employer's business interest is misconduct.
4. A worker discharged for refusal to violate a public law or rule will be found to have been discharged for a reason other than misconduct connected with the work.
5. A benefit determination shall not be delayed pending action by a court or another agency.

Historical Note

Former rule number Misconduct 490. - 490.05. Former rule repealed, new Section R6-3-51490 adopted effective January, 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective October 22, 1981 (Supp. 81-5).

ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY**R6-3-5201. Reserved****R6-3-5202. Reserved****R6-3-5203. Reserved****R6-3-5204. Reserved****R6-3-5205. General (Able and Available 5)**

A.R.S. § 23-771 of the Employment Security Law of Arizona provides in part: "An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that: . . . 3. He is able to work, and is available for work

1. In order to conform to and carry out the meaning and intent of A.R.S. § 23-771, the word "is" as used in paragraph (3) of that section should be construed to mean "was" with respect to the week in question.
2. Availability for work is defined as the readiness of a claimant to accept suitable work when offered. To fulfill this requirement all the following criteria must be met:
 - a. He must be accessible to a labor market
 - b. He must be ready to work on a full-time basis
 - c. His personal circumstances must leave him free to accept and undertake some form of full-time work
 - d. He must be actively seeking work or following a course of action reasonably designed to result in his prompt reemployment in full-time work.
3. The criterion is availability for work, rather than availability of work. The willingness or unwillingness of employers to hire is not relevant to the issue.
4. The term "work" means suitable work (work which is in a recognized occupation, for which the claimant is reasonably fitted and which he does not have good cause to refuse).
5. Availability for work is a relative term. The objective of availability is to determine if a claimant is genuinely and regularly attached to the labor market. Availability for work also is the relationship between the restrictions imposed upon a claimant and the job requirements of the work which he is qualified to perform. It implies that restrictions do not unduly lessen the possibilities of his accepting suitable work. Unreasonable restrictions which substantially limit employment opportunities result in unavailability. (Whether the restrictions are unreasonable depends upon their source, as well as their effect upon the possibilities of employment.)
6. A claimant's eligibility is not impaired when he is physically unable to work, or engaged in activities which would prevent his working, provided:
 - a. The period involved is not more than one full calendar day, and

- b. The inability or activities do not reduce or jeopardize his opportunities for employment.
7. Only the working days in the claimant's customary occupation are to be considered in applying the one day's inability to work or unavailability for work. One working day is defined to mean a normal work shift. A normal shift for any claimant is what is normal in his occupation. If the claimant is not able or available for more than a full shift, he is ineligible for benefits. Whether a claimant's activities have reduced or jeopardized his employment opportunities must be determined objectively and in retrospect. For example, under any of the following situations, a claimant's activities on the day in question may have reduced or jeopardized his employment opportunities:
 - a. The claimant refused a job or referral;
 - b. The claimant failed to comply with his union registration or referral regulations;
 - c. The Job Service or the claimant's union tried to contact the claimant for possible referral, but was unable to do so;
 - d. An employer made an effort to contact the claimant for a job offer or interview, but was unable to do so.
8. In applying this policy, the nature of the activities is not a factor. It is immaterial whether the activities resulted from compelling circumstances or from normal activities of people in general.

Historical Note

Former rule number - Able and Available 5. Former rule repealed, new Section R6-3-5205 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5206. Reserved thru**R6-3-5239. Reserved****R6-3-5240. Attendance at School or Training Course**

- A. In this rule, "full-time student" means a person who:
 1. Satisfies the criteria for being a full-time student, as established by the school the student is attending; or
 2. Is a part-time student at 2 different schools if the number of the student's combined hours meets at least 1 school's definition of full-time student.
- B. Except as otherwise provided in A.R.S. § 23-771.01 and A.A.C. R6-3-1809, a claimant who is or was a full-time student during the most recent regular school term is presumed unavailable for work.
 1. A claimant who is currently attending school may remove the presumption of unavailability through 1 of the methods described in this subsection.
 - a. The claimant shows a pattern of concurrent, full-time work and full-time school attendance for the 9 month period before the claimant files an initial claim for unemployment insurance, and the claimant has not, in order to attend school or a training course:
 - i. Left suitable full-time work,
 - ii. Refused suitable full-time work, or
 - iii. Reduced the hours of work to part-time;
 - b. The claimant, who cannot establish a 9-month pattern of concurrent full-time work and full-time school attendance because the claimant was engaged in active military service or other similar service for the United States during that period shows that the claimant:
 - i. Is conducting a work search as prescribed in R6-3-52160, and

- ii. Is willing to change class hours or drop classes to accept suitable full-time work, or
 - iii. Is able to work full time during hours other than the class hours.
- c. The claimant shows that the claimant attends classes only at night and is experienced at and seeking work readily available during daytime hours.
- 2. A claimant who is not currently attending school, but who attended school as a full-time student during the most recent regular term, may remove the presumption of unavailability if the claimant:
 - a. Graduated or completed the course,
 - b. Discontinued school prior to the end of the term, or
 - c. Does not intend to return for the next regular term.
- C. A claimant attending school as a part-time student is presumed available for work when the claimant establishes that:
 - 1. Schooling is incidental to full-time employment,
 - 2. The claimant did not leave full-time work to enroll as a part-time student, and
 - 3. There is full-time work available during hours other than the time when the claimant attends classes, or
 - 4. The claimant will change the hours of school attendance or drop classes in order to accept full-time work.
- D. A claimant attending a training course of less than 4 weeks' duration is eligible for benefits if:
 - 1. The course is sponsored by an employer who will employ the claimant upon the claimant's successful completion of the course, or
 - 2. The course provides a vocational evaluation or other service that assists the claimant in becoming reemployed.

Historical Note

Former rule number - Able and Available 40. - 40.1.
 Former rule repealed, new Section R6-3-5240 adopted effective January 24, 1977 (Supp. 77-1). Amended subsection (A)(1) and (2) effective July 9, 1980 (Supp. 80-4).
 Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5241. Reserved**R6-3-5242. Reserved****R6-3-5243. Reserved****R6-3-5244. Reserved****R6-3-5245. Disloyalty (Able and Available 45)**

Security clearance (Able and Available 45.32). Any person unable to obtain employment in his work classification because he has been denied access to classified security information shall be held unavailable for work unless it is determined he is available for other suitable work for which a security clearance is not required.

Historical Note

Former rule number - Able and Available 45. - 45.32.
 Former rule repealed, new Section R6-3-5245 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5246. Reserved**thru****R6-3-5269. Reserved****R6-3-5270. Citizenship or residence requirements (Able and Available 70)**

- A. An alien claimant who is residing illegally in the United States is unavailable for work.
- B. A claimant lawfully in the United States who will not be hired by certain employers because he is an alien, is available for work provided work not requiring citizenship exists in reasonable quantity in the area in which he resides, and he will accept such work.

- C. A claimant lawfully in the United States who lacks citizenship and restricts himself solely to work requiring citizenship is unavailable for work.

Historical Note

Former rule number - Able and Available 70. Former rule repealed, new Section R6-3-5270 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5271. Reserved**thru****R6-3-5289. Reserved****R6-3-5290. Conscientious objection (Able and Available 90)**

A claimant who places certain restrictions upon his availability because of religious convictions may be held available for work if it can be shown that work for which he is qualified exists within these limitations, or if he has previously performed full-time work under such limitations.

Historical Note

Former rule number - Able and Available 90. Former rule repealed, new Section R6-3-5290 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5291. Reserved**thru****R6-3-52104. Reserved****R6-3-52105. Contract obligation (Able and Available 105)**

- A. An individual's normal field of employment may be narrowed by contract obligations. For example:
 - 1. Under contract terms with his last employer, he may be prohibited from accepting work in a certain line; or
 - 2. His contract with an employer may require that he hold himself ready to answer work calls from that employer on certain days of the week; or
 - 3. He may be required by a lease to remain on a certain piece of property most of his time.
- B. Before determining whether a contract renders an individual unavailable, the relevant restrictions of the contract must be considered. If the contract requires full-time employment, the claimant is not available for work. If it does not, the claimant's obligations must be examined to see whether they unduly restrict accepting full-time employment for which he is qualified. Undue restriction consists of that degree of restriction which leaves no reasonable possibility of acceptance of full-time employment. Thus, if a salesman is obligated not to take sales work and cannot or will not take other work, he is unduly restricted and is unavailable for work.
- C. An individual may be under certain contractual obligations and still assert that if employment were offered he would accept it in violation of his contract. This assertion must be viewed in the light of all the circumstances; if it appears to be true, there is no restriction in fact. In this type of case, thoroughness of investigation by the adjudicator cannot be too greatly emphasized.
- D. A claimant who is "on call" or on "extra" or "stand-by" basis, but who is not required to work specific hours, may be presumed available for work if other circumstances indicate a readiness to accept work. A claimant on call who is not required to work specific hours and is ready to accept other work may be held available for work.
- E. A contract to work in the future does not affect availability for the present, unless preparation for employment restricts the claimant's acceptance of suitable work. There is no requirement that the individual must be available for work at some future time. The mere fact that the claimant has a contract to begin another job several months after filing his initial claim does not render him unavailable during the period prior to

beginning work under the contract. However, if the claimant states that he is unwilling to accept work because he has a contract for work beginning some time in the near future, he is unavailable for work.

Historical Note

Former rule number - Able and Available 105. Former rule repealed, new Section R6-3-52105 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52106. Reserved thru

R6-3-52149. Reserved

R6-3-52150. Distance to work (Able and Available 150)

A. General (Able and Available 150.05)

1. There is a presumption of unavailability if an individual resides in a community in which there is no type of work existent for which he is qualified, and he is unable to seek and accept work in other communities in which such work does exist. This presumption can be overcome by a showing that the individual has an attachment to the community in which he is residing and that other suitable work exists. In arriving at a determination of this nature it is necessary to identify the type or types of work which the individual might reasonably be able to do and establish that such work does exist. If such work does exist, a period of adjustment is permitted before the claimant is expected to seek work elsewhere. The length of the adjustment period will depend on the length and nature of the claimant's attachment to the community and his prospects of securing other related work. In establishing the existence or lack of existence of such work it is essential to consider the total number of jobs of such classifications rather than the number of job openings or job orders.
2. Regardless of the claimant's attachment to the community, he should be held available if some work exists in the community in which he resides and there is a reasonable expectancy of his obtaining such work.

B. In transit (Able and Available 150.1)

1. When an individual moves from locality to locality, it is important to determine whether the individual's activities are directed toward efforts to obtain work or are directed to personal efforts inconsistent with his attachment to the labor market.
2. A claimant who is absent from his home or the community in which he most recently performed work, without additional evidence as to the reason for his absence, is presumed unavailable for work.
3. When the circumstances show that the claimant's purpose in traveling was to obtain employment and it was reasonable for him to believe that his opportunities for employment would be improved by the travel, he may be considered available for work during the period in which he was in transit.

C. Removal from locality (Able and Available 150.15)

1. Generally, a claimant must be in a position to accept work of a type for which he is qualified at a place where that type (or types) of work is done. The mere fact that a claimant goes or moves from one locality to another is not of itself a basis for holding him unavailable for work. The main factors to consider in such a case are:
 - a. What are his work opportunities in the new locality?
 - b. Does he actually want work in the new locality?
 - c. Does his reason for leaving the old locality or leaving employment in the former locality still exist and,

if so, does this unduly restrict his availability for work?

2. A claimant who goes to a new locality generally will be presumed available for work if:
 - a. The labor force conditions there afford him some work opportunities;
 - b. He has registered for work;
 - c. He is seeking work in the manner ordinarily followed by persons seeking work there; and
 - d. There are no undue restrictions on his employability.
3. However, if the claimant left employment to go to the new locality or if his move was necessitated by personal or domestic circumstances, a more intensive inquiry into the reason surrounding the move must be made since the reason for leaving may restrict the individual's availability in the new location.
4. If the individual left work in the old locality because of dissatisfaction with wages or some other working condition, the same or other objectionable working conditions may exist in the new locality. Thus, he may be restricting his employability in the new locality to such an extent that he is not considered available for work.
5. If he left the locality because of his own health or illness or that of a member of his family, his ability to work or availability may be restricted in the new locality by the same circumstances, e.g., new climate does not improve health enough to enable him to work; member of family requires care which the claimant must give because of inability or unwillingness to obtain someone else to care for the family member.
6. Various other factors may have a bearing as to whether a claimant is available for work in a new locality. Among these are:
 - a. The anticipated permanency of his stay;
 - b. His reasons for going there if he intended to remain only a temporary period;
 - c. The nature of the restrictions upon his employability;
 - d. His reasons for anticipating job opportunities in the new community;
 - e. His reasons for refusing work in other localities;
 - f. His willingness to relax restrictions as to other types of work he might accept after a reasonable period of time.
7. If the community is so small that there is a question as to whether any work opportunities exist, the adjudicator must evaluate the work opportunities in the locality and the number of vacancies which would normally occur in the occupations for which the claimant is qualified and will accept.

D. Transportation and travel (Able and Available 150.2)

1. The availability of a worker whose employment has terminated because he lacked transportation to and from the work he had been performing is questionable. This is particularly so when the loss of transportation appears to largely preclude his access to the work opportunities which characterize the specific labor force locality in which he seeks work.
2. "Availability for work" generally presupposes that the individual is accessible to suitable work opportunities which the particular community ordinarily supplies. Generally, if the claimant cannot accept the work opportunities that exist because of lack of transportation, he is not deemed employable and therefore, is unavailable for work; however, the fact that he may lack transportation to any specific employment does not require this result. The

adjudicator shall evaluate the work opportunities that do exist not only as to number but as to the amount of attrition which would normally occur in the types of positions that exist in the area and the claimant's accessibility to such work opportunities.

3. When job offers are refused because of the distance, the issue of availability may enter into the decision because of transportation restrictions. Some points to be considered are:
 - a. The transportation facilities available to the claimant;
 - b. If dependent on public transportation, the proximity, routes and schedules are to be reviewed for the claimant's accessibility to adequate job opportunities;
 - c. If dependent on a relative or neighbor for transportation, the name and location of such relative or neighbor, the location of such job and the time the relative or neighbor leaves for and returns from work should be examined for the practicality of reliance on such individual for transportation.
 - d. The cost of transportation;
 - e. The transportation facilities the claimant had on his last job;
 - f. If no transportation is available to the main employment centers, whether he reduced his opportunity for reasonable expectancy of employment.
4. A claimant who does not have public transportation available to him must have transportation previously arranged so that he would be immediately able to commute to suitable work to which he might be referred.
5. A claimant without transportation from his residence to the major labor market centers during those hours in which the majority of the jobs for which he is reasonably fitted are performed generally will be held to be unavailable for work.
6. A claimant who refuses to travel a reasonable commuting distance substantially reducing his opportunities for employment is not available for work unless there is a reasonable expectancy of his obtaining work in the restricted locality. "Beyond reasonable commuting distance" is generally:
 - a. More than 20 miles from the claimant's residence to place of employment, or
 - b. More than one hour elapsed commuting time one way, or
 - c. Commuting expense equal to 15 percent or more of a claimant's gross wage. (The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for official travel as the standard for determining cost of travel to the claimant.)

Historical Note

Former rule number - Able and Available 150. - 150.2.
Former rule repealed, new Section R6-3-52150 adopted effective January 24, 1977 (Supp. 77-1). Amended subsection (A), paragraph (1) and subsection (D), paragraphs (3) and (6) (Supp. 83-4).

R6-3-52151. Reserved

R6-3-52152. Reserved

R6-3-52153. Reserved

R6-3-52154. Reserved

R6-3-52155. Domestic circumstances (Able and Available 155)

- A. A claimant is considered available for work only when he is prepared to accept at once (or within a reasonable time) any offer of suitable full-time employment. When the claimant's domestic circumstances are such that no work can be accepted for a temporary or permanent period, the claimant is unavailable for work. If, however, the claimant's circumstances do not unduly restrict his chances of employment, he may be available.
- B. The restrictions must be considered in the light of the prevailing conditions of work, the claimant's past experience in working under such restrictions, and the opportunity of obtaining work under such restrictions. Quantitative standards cannot be set forth, but a good working rule is that a claimant's restrictions must not narrow his field of employment to such a degree that he has no reasonable possibility of obtaining or accepting employment for which he is reasonably fitted.

Historical Note

Former rule number - Able and Available 155. Former rule repealed, new Section R6-3-52155 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52156. Reserved

R6-3-52157. Reserved

R6-3-52158. Reserved

R6-3-52159. Reserved

R6-3-52160. Effort to secure employment or willingness to work (Able and Available 160)

- A. Application for work (Able and Available 160.1)
 1. In order to maintain continuing eligibility for unemployment insurance a claimant shall be required to show that, in addition to registering for work, he has followed a course of action which is reasonably designed to result in his prompt reemployment in suitable work. Consideration shall be given to the customary methods of obtaining work in his usual occupation or for which he is reasonably suited, and the current condition of the labor market. Subject to the foregoing, the following actions by a claimant either singular or in combination may be considered a reasonable effort to seek work.
 - a. Registering and continuing active checking with the claimant's union hiring or placement facility.
 - b. Registering with a placement facility of the claimant's professional organization.
 - c. Applying for employment with former employers.
 - d. Making application with employers who may reasonably be expected to have openings suitable to the claimant.
 - e. Registering with a placement facility of a school, college, or university if one is available to the claimant in his occupation or profession.
 - f. Making application or taking examination for openings in the civil service of a governmental unit.
 - g. Registering for suitable work with a private employment agency or an employer's placement facility.
 - h. Responding to appropriate "want ads" for work which appear suitable to the claimant.
 - i. Any other action found to constitute an effective means of seeking work suitable to the claimant.
 - No claimant, however, shall be denied benefits solely on the ground that he has failed or refused to register with a private employment agency or any other placement facility which charges the job seeker a fee for its services.
 2. A claimant shall be deemed to have failed to make a reasonable effort to seek work on his own behalf if he has

wilfully followed a course of action designed to discourage prospective employers from hiring him for suitable work.

3. Notwithstanding any of the foregoing, if the prospects of suitable job openings other than those listed with the public Job Service in a particular locality, or time period are so remote that any effort to seek work other than by registration for work would be fruitless to the claimant and burdensome to employers, then such registration by the claimant shall be deemed a reasonable effort to seek work.
4. A claimant is not required to register for work with the Job Service if he is unemployed due to a labor dispute at the establishment of his employer and he intends to return to work for such employer following termination of the dispute. Any claimant who is unemployed due to a labor dispute and who states on his initial claim that he register for work and lists his occupation is deemed to have met the Department's registration requirements. This applies equally to those claimants who normally obtain work by registering with their union hiring or placement facility.
5. When a claimant has a definite date to return to work for a former employer, or a definite starting date for employment or approved training, the question of availability as it relates to continued work search will depend on the nature of the claimant's usual work, the condition of the labor market, and the span of time until he is to begin work or training.
 - a. A claimant who customarily performs work in which temporary employment is common must continue to seek temporary jobs until the beginning date of work or training to be considered available for work.
 - b. A claimant qualified only in work for which odd job employment seldom exists will not be expected to seek other employment during a reasonable period before the job or training is to start. A reasonable period is generally considered to be two weeks.

- B.** Registration and reporting (Able and Available 160.3). When a claimant fails to respond as directed to a Job Service call-in card or telephone call-in regarding a possible referral to employment, he is unavailable for work for the week in which he fails to respond unless such failure was due to non-receipt of the card or message through no fault of his or his agent.

Historical Note

Former rule number Able and Available 160. - 160.3.
Former rule repealed, new Section R6-3-52160 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 19, 1979 (Supp. 79-2).

R6-3-52161. Reserved

R6-3-52162. Reserved

R6-3-52163. Reserved

R6-3-52164. Reserved

R6-3-52165. Employer requirements (Able and Available 165)

A. General (Able and Available 165.05)

1. An employer has the right to set certain requirements which must be met by an individual to obtain employment. The failure or inability of an individual to meet the employer's requirements, although indicating a lack of qualifications for a particular job, will not render him unavailable for work if there are no undue restrictions upon the acceptance of other employment for which he is reasonably fitted. Some employers may require that an employee be bonded; others require physical and mental

examinations, possession of certain tools, doctor's certificate, automobiles, or other equipment. Whether failure to meet such requirements would effectively bar the individual from suitable full-time employment depends on the customary practices in the claimant's occupation in that labor market area.

2. The refusal of employers to hire a worker because of non-work related requirements such as age, marital status, race or religion, constitutes unreasonable discrimination and does not render the worker unavailable.
- B.** Physical status (Able and Available 165.2). When a claimant is unable to meet a particular employer's physical requirements, he may be presumed able to work if it can be established that he is able to perform work for which he is reasonably qualified in some recognized occupation which exists in the community. The claimant's inability to pass an employer's physical examination or to meet its insurance requirements, in itself, does not establish his inability to work.

Historical Note

Former rule number -- Able and Available 165. - 165.2.
Former rule repealed, new Section R6-3-5 2165 adopted effective January 24, 1977 (Supp. 77-1). Amended effective May 8, 1979 (Supp. 79-3).

**R6-3-52166. Reserved
thru**

R6-3-52179. Reserved

R6-3-52180. Equipment (Able and Available 180)

- A.** In certain skilled occupations such as automobile mechanic, bricklayer, carpenter, plasterer, plumber, or welder, workers customarily own the hand tools or special clothing which they use in performing their work. If a claimant is seeking work only in such occupations it is his responsibility to have such equipment available for immediate use during periods of unemployment.
- B.** When a worker does not possess the customary equipment for his occupation and is unable or unwilling to purchase it, he is unavailable for work unless he is qualified for and is willing to accept other work existing in the area.

Historical Note

Former rule number Able and Available 180. Former rule repealed, new Section R6-3-52180 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-52181. Reserved
thru**

R6-3-52189. Reserved

R6-3-52190. Evidence (Able and Available 190)

A. General (Able and Available 190.05)

1. The question of ability to work frequently arises in cases when the claimant's employment was terminated by an illness or operation, but the claimant alleges a sufficient recovery to be able to return to work in his usual occupation. Any presumption of inability arising from a recent illness or operation may be rebutted by evidence showing the actual return to work following the illness or operation without a relapse. Employment subsequent to an illness is sufficient evidence of ability to work, provided it is not terminated because the individual has returned to work prematurely or found on trial he would be unable to do that type of work any longer.
2. Availability for work is more subjective and intangible than ability however, there are certain objective factors that may be applied in determining availability.

B. Burden of proof and presumptions (Able and Available 190.1)

1. When the claimant's physician states that the claimant is unable to do any work, the claimant may be presumed unable to work. However, when the claimant subsequently secures employment which is terminated by a layoff or a voluntary quit, either of which attributable to the claimant's lack of physical capacity to perform the work, his subsequent employment will not be sufficient in itself to overcome the physician's statement that the claimant is unable to work. Additional evidence however, may be presented to show that he is able to work.
 2. A claimant may be presumed able to work when a physician certifies that the claimant can engage in full-time restricted work, provided the claimant is qualified to perform such work. A claimant may be presumed unable to work when a physician states he should not work for a specified period of time.
 3. A claimant who states that he is able and willing to accept a part-time job but is unable to accept a full-time job because of a physical disability may be presumed to be unable to work. A claimant who states that he is unable to work is considered unable to work.
 4. The best proof of ability is evidence that work has actually been done by the claimant despite his physical disability. In the absence of evidence that the claimant's condition has altered, this is proof of ability. For example, a totally blind claimant was determined able to work when he showed that he had worked for two years as a machine fitter in a workshop for the blind.
 5. A presumption of ability to work arises from the claimant's certification of ability and the statement of the reason for separation from his last employment for causes other than a disability. However, an availability issue may be raised at any time during the claims filing or work registration process. Among the factors which may raise such an issue are:
 - a. Allegations made by the employer or other interested persons.
 - b. The claimant's oral or written statements.
 - c. The adjudicator's observation of an obvious disability.
 - d. The claimant's receipt of disability compensation, health insurance benefits, or workmen's compensation.
 - e. Leaving or refusal of work because of physical restrictions.
 - f. Evidence that the claimant was unemployed for long periods of time, or intermittently, because of his physical condition.
 6. When questions of inability do arise the claimant has the burden of establishing his ability to work. The presumption of disability may be rebutted by the claimant through any or all of the following: medical evidence, proof of employment, under the same circumstances prior to the date of the claim and discovery of additional work skills.
 7. A presumption of unavailability may be raised by various circumstances such as:
 - a. Voluntary leaving of employment.
 - b. Refusal of work.
 - c. Discharge for misconduct.
 - d. Failure to register for work.
 - e. A long period of unemployment, or self employment.
 - f. Attendance at school or training, other than approved training.
 - g. Allegations by interested parties.
 - h. Domestic or personal circumstances.
 - i. Union restrictions.
 - j. Contract obligations, etc.
 8. A claimant's certification that he is available for work is accepted as prima facie evidence of availability in the absence of evidence to the contrary. His statement that he is unwilling to accept work is accepted as proof of his unavailability. Seeking work, regular reporting to the Job Service office and registration for work is evidence of availability.
 9. Statement of specific conditions and limitations on the type of work or the circumstances under which work will be accepted may create presumptions of unavailability. For example, the presumption of unavailability exists where a claimant states that he will only accept work of a type for which he is inadequately qualified by his inability to meet established standards, union membership requirements, and the like, or, where he restricts himself to work which does not exist in the community. There must be a reasonable possibility of his obtaining the type of work for which he claims he is available during the hours to which he restricts himself, at the wages, and under the conditions stipulated by him. The work to which he restricts himself must be in a recognized occupation.
- C. Weight and sufficiency (Able and Available 190.15)
1. Many factors relating to ability are identical with those bearing on availability. Factors involving involuntary leaving, refusal of work, failure to report to the local office, and a long period of unemployment are reviewed under the subject of availability. Additional factors relating exclusively to the establishment of ability to work are treated in paragraphs (2) and (3) of this rule.
 2. The claimant who is unable to engage in his usual occupation because of illness or disability may be presumed able to work if he is qualified by training and experience for other work. In such cases, a doctor's certificate generally is sufficient evidence of ability, but the nature of the certificate should be scrutinized carefully. For example, a certificate showing that a claimant is able to engage in a "sedentary occupation, such as boot and shoe repairing," is not proof of ability when the claimant does not have the skill or training requisites for such an occupation. The recency of the physical examination must be considered in evaluating a medical report. When medical reports of the claimant's ability to work conflict, the major emphasis is placed upon the statement which most conforms to other information in the possession of the adjudicator.
 3. A doctor's opinion that a worker's physical condition makes him more susceptible to industrial injuries and a bad employment risk is not of itself conclusive evidence, that the worker is unable to work. The term "ability to work" is interpreted as the actual physical ability of a claimant to perform work for which he is qualified.
 4. The most convincing evidence of availability is full-time employment. Although an individual may have left work because of domestic duties, the fact that he subsequently accepts work when offered is evidence of availability for work. Previous full-time employment under circumstances similar to the individual's present circumstances is evidence of availability. For example, the individual who restricts herself to day work only because she is unable to find someone to care for her child except during the day is available for work if such work is generally performed in the area.

5. The extent to which a claimant's restrictions limit his possibility for employment is the criterion for establishing his availability.

Historical Note

Former rule number Able and Available 190. - 190.15.
Former rule repealed, new Section R6-3-52190 adopted effective January 24, 1977 (Supp. 77-1). Typographical error corrected (Supp. 97-3).

R6-3-52191. Reserved thru

R6-3-52234. Reserved

R6-3-52235. Health or physical condition (Able and Available 235)

A. General (Able and Available 235.05)

1. Ability to work, a requisite for eligibility for benefits, generally means the physical and mental capacity of an individual to work under circumstances that ordinarily exist. Thus, ability to work is defined as the possession of the physical and mental capabilities necessary to the performance of suitable work for which one is reasonably fitted. Conversely, inability to work refers to a lack of physical or mental ability to such a degree as to prevent the acceptance of work for which one is reasonably fitted which renders him unemployable.
2. The above definition does not restrict the term "work" to the usual occupation of the claimant. It includes any type of work for which the claimant is reasonably fitted and which he can perform under normal conditions of employment. He may be prevented entirely by his disability from pursuing his usual occupation and yet retain sufficient physical and mental ability to perform some gainful full-time work for which he is reasonably fitted. For the claimant to be considered able to work, it is not necessary that he compete successfully with able-bodied men or that he establish the willingness of employers to hire him. Therefore, a physical or mental disability, although lessening or even canceling a claimant's employment opportunities because of the unwillingness of employers to engage him, does not negate his ability to work. The question is whether the claimant is able to work and not whether he can obtain work.
3. "Ability to work" does not include a claimant's appearance or any other characteristic which might prejudice employers against employing him. However, the term "ability to work" does include the fact that the work for which the claimant is qualified must exist as a recognized part of the labor market and that the claimant must be capable of performing such work without endangering the lives and well-being of himself, his fellow workers, the public, or his employer.
4. Ordinarily, skilled workers who can no longer follow their trades are considered more able to work than unskilled workers since the former possess a number of skills which can be transferred to a larger number of related fields and usually can assume more positions of responsibility. Counseling services of the Job Service may succeed in revealing additional types of work for which the claimant is qualified.

B. Age (Able and Available 235.1)

1. Age, in itself, does not create a presumption that a claimant is unable to work. Additional factors, such as the claimant's separation from employment because of inability to produce or his retirement, must be present in order to raise a question of inability. Similarly, a statement that a claimant was separated or retired because he

was unable "to maintain his production" raises just as much of a question as to the effect of the employer's requirements for the job as it does on the claimant's ability to perform work.

2. In either event it requires additional evidence of its import. If the claimant can show that he is able to perform other suitable work for which he is qualified and reasonably fitted, or that he could still meet the production standards of other employers, he would not be unable to work.

C. Communicable disease (Able and Available 235.15)

1. In determining whether a claimant who suffers from some physical impairment, is able to work, it is not only necessary to determine whether the claimant can physically perform the tasks for which he states he is available, but also, whether he can do so without substantially endangering the health and well-being of himself, his fellow workers, the public, or the employer.
2. A claimant who suffers from an infectious or communicable disease may be considered able to work if he is qualified for and willing to accept work in an occupation where the disease would not be a hazard. When the claimant is under medical treatment and his physician certifies that the disease is in a non-communicable state, the claimant is able to work in an occupation for which he is reasonably fitted. However, when the claimant's physician states that the claimant should not work because of the danger of infecting others, or when the law of the community prohibits his employment because of the disease, the claimant is unable to work until his physician certifies that he is able to work without endangering others.

D. Illness or injury (Able and Available 235.25)

1. An individual's ability to work may be restricted by illness or injury which results in temporary, partial, or total disability. Again it is stressed that a claimant's ability is judged solely on the basis of his capability to perform work for which he is qualified and not on the willingness of employers to hire him.
2. When a claimant is subject to periodic seizures or attacks (such as epileptic seizures) which render him unable to work during the seizure or attack, he may be presumed able to work if, during the intervals between seizures, he is able to perform work for which he is qualified and which does not involve unusual hazards.

E. Pregnancy (Able and Available 235.4)

1. Although pregnancy of itself may not render a woman unable to work, a claimant who is pregnant is presumed to be unable to work for a period of 8 weeks prior to the calculated date of delivery and for 6 weeks immediately following delivery. Such presumption may however be rebutted by medical evidence or other proof to the contrary.
2. A pregnant woman who leaves employment because it is too difficult for her to perform work in her customary occupation may be considered able to work if there is medical evidence that she is able to do less strenuous work for which she is qualified and ready to accept such work. However, if the claimant is not qualified to perform less strenuous work, or if her physician recommends that she should not work, she may be presumed unable to work.
3. A pregnant woman who voluntarily leaves suitable employment which she could have continued to perform and which did not adversely affect her health may be presumed unavailable for work. However, when a claimant

was unable to work in the early months of pregnancy, but has now recovered sufficiently to be able to return to work, she may be presumed able to work, if her physician agrees that she is physically able to return to work.

4. When a pregnant woman restricts her availability to work which will not require her to stand, lift heavy objects, travel great distances, etc., she may be presumed able to work only if it is shown that work for which she is reasonably fitted does not require these conditions and when there is a reasonable possibility of her obtaining such work within the restrictions imposed.
5. If a claimant states that she is able to work only part time because of her pregnancy, she may be presumed unable to work.

Historical Note

Former rule number - Able and Available 235. - 235.4.
Former rule repealed, new Section R6-3-52235 adopted effective January 24, 1977 (Supp. 77-1). Typographical error corrected (Supp. 97-3).

R6-3-52236. Reserved
thru

R6-3-52249. Reserved

R6-3-52250. Incarceration or other legal detention (Able and Available 250)

- A. An individual who is prevented from accepting employment because of confinement in jail is unavailable for work. However, every form of legal detention does not result in complete withdrawal from the labor market.
- B. In most instances, a person on probation is not unduly restricted. Neither is a person who is free on bond pending appearance in court. A person under a peace bond (a bond conditioned on performance or non-performance of certain acts) may or may not be available, depending upon how much his field of employment is restricted. Broadly speaking a person is available for work when his personal conditions and circumstances leave him free to accept and undertake some form of work for which he is qualified. The fact that employers may hesitate to employ a person with a police record is irrelevant, since the person's availability is not dependent upon the willingness of employers to hire him.

Historical Note

Former rule number - Able and Available 250. Former rule repealed, new Section R6-3-52250 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52251. Reserved
thru

R6-3-52284. Reserved

R6-3-52285. Leave or absence or vacation (Able and Available 285)

- A. A claimant on leave of absence generally is unavailable for work. The availability of the claimant depends upon the following factors:
 1. The reason for the leave of absence; and
 2. Whether the leave of absence binds him from accepting employment during the duration of the leave; and
 3. Whether he has demonstrated that he is actively in the labor market; and
 4. Whether there is a financial necessity for the claimant being in the labor market.
- B. The nature of the leave is of primary importance. If examination of the written leave or interview of the claimant discloses that the claimant is receiving remuneration for the period of the leave, he must be deemed to be not unemployed. If the leave contains provisions prohibiting the claimant from

accepting other employment, the claimant must show that he does not intend to comply with the provision of the leave and that he is actively in the labor market. If the claimant requested the leave to recuperate from an illness or because of domestic circumstances, the ability or availability of the claimant is questionable. When the claimant contends he is able and available despite his illness or despite the domestic circumstances, the case should be reviewed with reference to R6-3-52190(A) or R6-3-52155(A) of these rules. If the claimant has removed to this area because of the need for a change of climate and he is able to work, the nature of the leave of absence and his activities in attempting to secure work must be carefully reviewed.

- C. In order to demonstrate attachment to the labor market, the claimant must establish that he is making all reasonable efforts to obtain employment on his own behalf and that he is not restricting unduly the type and working conditions of the employment he will accept.
- D. The final factor for consideration, the financial necessity for the claimant's being in the labor market, always should be considered in determining the availability of a claimant on leave of absence. The financial status of the claimant should be examined. The need for an income to carry current expenses is a forceful argument of a claimant's real attitude toward a job and his efforts to seek employment.

Historical Note

Former rule number - Able and Available 285. Former rule repealed, new Section R6-3-52285 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52286. Reserved
thru

R6-3-52294. Reserved

R6-3-52295. Length of unemployment (Able and Available 295)

- A. In determining whether a claimant is available for work, consideration must be given to his length of unemployment. Although a claimant should be allowed a reasonable period of time in which to obtain suitable work at his highest skill, prolonged unwillingness to accept other work for which he is qualified may, in effect, render the claimant unavailable. Therefore, as the period of the claimant's unemployment lengths, he will be expected to lessen the restrictions he imposes as to the type of work he is seeking and is willing to accept.
- B. Generally, the reasonable period in which a claimant shall be allowed to restrict his availability to his highest skill without denial of benefits will be the periods specified in R6-3-53295. These periods are guides for availability purposes. In determining when a claimant should be required to widen his search for work, the adjudicator shall consider the claimant's personal circumstances and the prevailing labor market conditions.
- C. A claimant shall be deemed unavailable because he restricts his search or willingness to accept work to his highest skill;
 1. Beyond a reasonable period of adjustment; or
 2. Whenever the possibility of obtaining work at his highest skill is remote and there is a reasonable expectation of his securing other suitable work for which he is qualified.
- D. A claimant shall not be deemed unavailable because he restricts his search or willingness to accept work, to his highest skill if:
 1. He has good prospects of work at his highest skill; or
 2. Prospects of obtaining it are extremely limited due to excess job seekers for that type of work or other labor market conditions.

Historical Note

Former rule number - Able and Available 295. Former rule repealed, new Section R6-3-52295 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52296. Reserved thru**R6-3-52304. Reserved****R6-3-52305. Military service (Able and Available 305)**

A. A person who is subject to call for military service is not necessarily unduly restricted from accepting employment. This is true even though employers may be unwilling to hire such a worker.

1. A claimant may have been officially notified that he will be placed on active duty or active duty for training on or before a definite date and is limited to acceptance of temporary work. A claimant who is so restricted must be willing to accept temporary work without additional personal restrictions. Frequently such temporary work will not utilize the claimant's highest skill. Also the wage may not be equal to that which he earned in permanent employment. However, the claimant's unwillingness to accept such work, if it is otherwise suitable, would render him unavailable.
2. Active duty and active duty for training in the armed forces (other than weekend drills) is employment. Thus an individual on such duty is usually in employment within the meaning of A.R.S. § 23-621 of the Employment Security Law and if in employment the question of availability need not be considered. If, however for a particular week the earnings for such duty are less than the claimant's weekly benefit amount, he may be unemployed and his availability should then be tested by the same criteria as any other claimant who is employed during a partial week.

Historical Note

Former rule number Able and Available 305. Former rule repealed, new Section R6-3-52305 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52306. Reserved thru**R6-3-52319. Reserved****R6-3-52320. Notification of address (Able and Available 320)**

A claimant is obligated to keep the local office through which he is filing informed of his current mailing address so that he may be offered referrals by mail. If he cannot be reached by direct mail, he is not available for work for any week in which he fails to give the local office an address at which he can be reached by direct mail. In no event, however, should a claimant be held unavailable if his change of address is reported on the next regular report day. The above principle also applies to a claimant who is on layoff subject to recall under a contract of employment which specifies that he is to keep the employer informed of the address at which he can be reached for recall.

Historical Note

Former rule number Able and Available 320. Former rule repealed, new Section R6-3-52320 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52321. Reserved thru**R6-3-52369. Reserved****R6-3-52370. Public service (Able and Available 370)**

A. General (Able and Available 370.05). Witnesses, plaintiffs, and defendants are not employed and their availability on the

days of their attendance at court is questionable. Since an individual is compelled by law to comply with a subpoena and since absence from work caused by such compliance does not constitute a breach of the employment contract, such individual is considered available for work.

B. Jury duty (Able and Available 370.1)

1. An individual shall not be deemed unavailable for work on the basis of his being selected as a member of a jury panel or as a juror in a specific trial. However, he must make a reasonable search for employment during the period he is so engaged.
2. Compensation for jury service shall be treated as wages in determining the benefit amount to which a claimant is entitled. Such wages shall be reported as earned during the week in which the claimant performs service as a juror.

C. Public office (Able and Available 370.15)

1. Questions may arise as to whether persons engaged in certain types of public service are unavailable for work or are employed.
2. Public officers such as judges, justices of the peace, policemen, etc., usually are considered as unavailable for work. However, when it is found that a public officer's duties require very little time and would not prevent his accepting suitable work for which he is qualified, he is considered to be available. For example, a justice of the peace in a rural community who is called upon only occasionally to perform marriage ceremonies, try cases, etc., may well be able to engage full time in his regular occupation.

Historical Note

Former rule number Able and Available 370. - 370.15. Former rule repealed, new Section R6-3-52370 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52371. Reserved**R6-3-52372. Reserved****R6-3-52373. Reserved****R6-3-52374. Reserved****R6-3-52375. Receipt of other payments (Able and Available 375)**

- A. General (Able and Available 375.05). Current receipt of group health insurance benefits for a concurrent period of recuperation creates a presumption that the claimant is unable to work. This presumption can be overcome if the claimant can establish that he is qualified and able to do work of a specific kind and his statement is supported by corroborating evidence. However, information on local labor market conditions available to the local office may create a presumption that the physical requirements for all work of the type for which he is qualified are too difficult to be met by the claimant. The terms of the group or health insurance policy or plan must be investigated in order to ascertain whether the claimant's allegations in his claim for benefits are contradictory to the statements made to the group or health insurance plan for the purpose of securing benefits. If the claimant's contentions or statements are contradictory, the truthfulness of the claimant's statements must be weighed in the light of all the facts.
- B. Disability compensation (Able and Available 375.1)
1. Receipt of compensation for disability raises a presumption that the claimant is not able to work, but it is not in itself conclusive evidence of inability.
 2. If the disability prevents work in his former occupation and there is no evidence that he is qualified for other work, he may be considered unable to work.

Evidence of the claimant's physical capacities must be obtained as a determination cannot be properly made solely on the basis of the receipt of workmen's disability compensation.

C. Pension (Able and Available 375.3)

1. A claimant's retirement or receipt of a pension creates a presumption that either the claimant has withdrawn from the labor market or his retirement is involuntary because of his inability to continue work. Positive evidence that he has re-entered the labor market will be required to overcome the presumption of ineligibility after retirement.
2. The terms and conditions in the plan or policy under which the claimant has or was retired must be ascertained. If a condition for receipt of a pension requires withdrawal from all work, the claimant would be required to show what he has done to rescind or forego his rights to the pension.
3. If the terms of the retirement agreement or plan merely preclude the continuation of employment with a given employer but makes no restriction on employment in other localities and with other employers, the presumption that the claimant has withdrawn from the labor market may be refuted by:
 - a. Employment after retirement,
 - b. Registration for work and certification of availability,
 - c. Efforts to find work.

Historical Note

Former rule number - Able and Available 375. - 375.3.
Former rule repealed, new Section R6-3-52375 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-52376. Reserved
thru**

R6-3-52414. Reserved

R6-3-52415. Self-employment or other work (Able and Available 415)

A. General (Able and Available 415.05)

1. The eligibility of self-employed individuals will initially be decided on the basis of their availability for work rather than on the basis of whether they are "employed" or "unemployed." The extent to which a claimant is prevented by the duties of his self-employment from accepting full-time suitable work is the criterion for establishing his availability.
2. The investment which the claimant has made in his enterprise, the existence of contractual obligations, the disposability of the business, and the nature and extent of the work which the claimant performs in his enterprise are all pertinent factors in determining his availability.
3. When the claimant is engaged in stop gap self-employment in an occupation other than his customary occupation, and his duties are incidental to the enterprise and can be delegated, or when there is no lease or contractual obligation, and the investment is small and the assets fluid, he may be available for work. However, when the investment in the enterprise is large or the income from the enterprise is substantial, a statement by the claimant that he is willing to give up the business is open to question.
4. If a claimant's activities are so limited that he can spend full time away from his enterprise during working hours, he is available for work. The fact that a claimant previously has worked full time under similar conditions is evidence of his availability.

B. Agriculture (Able and Available 415.1)

1. In determining the availability of self-employed farmers or ranchers, some of whom are available for work in spite of the fact that they have an investment and perform services on the farm or ranch, several factors must be considered such as:
 - a. The amount of time spent to complete their agricultural duties.
 - b. The amount of livestock.
 - c. The cost of hiring someone else to perform these duties as compared to the amount the claimant would be able to earn in his regular occupation.
 - d. The particular season during which the claim for benefits is filed.

Historical Note

Former rule number - Able and Available 415. - 415.1.
Former rule repealed, new Section R6-3-52415 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-52416. Reserved
thru**

R6-3-52449. Reserved

R6-3-52450. Time (Able and Available 450)

- A. A claimant who although willing to work full time, but who restricts himself to specific hours may be unavailable for work. The criterion is whether the restriction is such that it results in too narrow a market for his services in the locality in which he will work. When a claimant is unwilling to accept work requiring certain hours and the work is unsuitable for the claimant or he has good cause for its refusal, rejection of an offer of such work does not affect his availability.
- B. To be considered available for work, a claimant must be willing to accept suitable work during hours which afford him reasonable possibilities of obtaining work in the locality.
- C. When a claimant is unwilling to work during the hours prevailing for his kind of work, it is sometimes difficult to know whether the claimant is accessible to a substantial amount of work. As in other borderline cases, we look to the objective signs of the claimant's willingness to work. Factors to be considered are the claimant's work history, and whether his restriction to certain hours resulted from domestic necessities, or reasons of health, etc. The time restriction, which are within the worker's control, more easily show an unwillingness to work.
- D. A claimant who excludes employment requiring night hours is unavailable only when such hours are customary in his occupation or industry and there is not a substantial labor market during other hours.
- E. A claimant who restricts himself to night work because of personal reasons which are not compelling is unavailable for work, unless a substantial labor market remains for him.

Historical Note

Former rule number Able and Available 450. Former rule repealed, new Section R6-3-52450 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-52451. Reserved
thru**

R6-3-52474. Reserved

R6-3-52475. Union relations (Able and Available 475)

A. General (Able and Available 475.05)

1. While union requirements may narrow a claimant's field of employment, a restriction to union conditions will not generally render a claimant unavailable for work if all of the following conditions are met:

- a. He is a member in good standing of the union whose standard of wages and working conditions he demands.
 - b. The union has agreements affecting a substantial percentage of the jobs in the locality where he is seeking work.
2. The requirements for seeking work for a union member are outlined in R6-3-52160(A) of these rules.
- B. Membership (Able and Available 475.5).** Generally, lack of union membership does not render a claimant unavailable if there is a reasonable possibility of his obtaining employment in his usual occupation. A nonunion individual is not considered unavailable merely because an employer requires union membership as a prerequisite of being employed.

Historical Note

Former rule number Able and Available 475. - 475.5.
Former rule repealed, new Section R6-3-52475 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52476. Reserved thru**R6-3-52499. Reserved****R6-3-52500. Wages (Able and Available 500)**

- A.** A claimant should understand the import of any statement he makes regarding acceptable wages, and be aware of the prevailing rate. When it has been determined that a claimant has restricted the wages acceptable to him, an evaluation of the claimant's wage requirement is necessary to determine whether he is employable at the specified wage. The claimant's work history showing higher earnings and his possession of unusual abilities might result in employment at wages in excess of the prevailing rate. A claimant should be given a reasonable time in which to seek employment yielding comparable earnings, especially when the higher earnings appear due to superior ability. However, in time, when his continued unemployment clearly demonstrates that he must accept the prevailing rate if he is to obtain work in the particular locality, his refusal to accept the prevailing rate would render him unavailable for work.
- B.** In the absence of special circumstances, work at wages prevailing for his occupation in the community may be considered suitable for the claimant. Whether refusal of such work would render him unavailable depends upon whether such refusal results in his being inaccessible to a substantial number of work opportunities which the community affords. The fact that his restriction excludes some opportunities for suitable work is not conclusive that he is unavailable for work. If work in the particular locality in a particular occupation is quite standardized as to terms of employment and the vast majority of the local establishments provide rather uniform rates of pay for work in the claimant's occupation, a claimant's insistence upon higher wages for such work may result in his having only the slightest chance of becoming employed. Such a claimant would not be available for work.
- C.** In restricting acceptable wages to his former rate of pay, the claimant's availability is not impaired if there are reasonable prospects of reemployment at that figure in the near future.
- D.** A claimant who insists on union wages in a community where the union of which he is a member has agreements covering a substantial percentage of the jobs in the locality is not unduly restricting his availability. However, in a community where the union scale covers a very small percentage of jobs, such a restriction may render a claimant unavailable for work.
- E.** Claimants sometimes profess willingness to accept the prevailing wage scale on condition that they are guaranteed a higher wage by reason of overtime; a 48 rather than a 40-hour week;

bonuses of one kind or another; or on condition they are guaranteed immediate promotion to a higher scale. Unless there is a substantial percentage of jobs in the locality subject to those conditions, the claimant is unavailable for work. (For a discussion of the method of determining prevailing wages, refer to R6-3-53500(B) of these rules.)

Historical Note

Former rule number Able and Available 500. Former rule repealed, new Section R6-3-52500 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52501. Reserved thru**R6-3-52509. Reserved****R6-3-52510. Work, nature of (Able and Available 510)**

Customary (Able and Available 510.1). A claimant who is unable to accept work in his usual occupation is able to work only if he shows that he is reasonably fitted for other work which he is capable of performing on a full-time basis, that such work exists in the community in which he resides, and he is willing to accept such work under the conditions and rate of pay that prevail for similar work in the community.

Historical Note

Former rule number Able and Available 510. - 510.1.
Former rule repealed, new Section R6-3-52510 adopted effective January 24, 1977 (Supp. 77-1).

ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY**R6-3-5301. Reserved****R6-3-5302. Reserved****R6-3-5303. Reserved****R6-3-5304. Reserved****R6-3-5305. General; Definitions**

- A.** As used in A.R.S. § 23-776(A), "when so directed by the employment office or the department" means that an employment office, as defined in A.R.S. § 23-616, or another placement service within the Department, has provided a referral to a job opening.
- B.** Except as provided in subsection (C)(2) and R6-3-53335, the offer of work shall be an offer from a new employer.
- C.** The Department shall not disqualify a claimant for a refusal of work even though the offered work was suitable if either condition listed in this subsection exists.
 - 1. The claimant had good cause for the refusal. In this subsection, good cause means personal circumstances beyond the claimant's reasonable control and includes the following:
 - a. The claimant had a reasonable prospect of other work,
 - b. The claimant was ill, or
 - c. The claimant lacked transportation or child care.
 - 2. A continuing employer-employee relationship exists between the claimant and an employer who maintains a temporary or on-call roster of workers, and the work offered by this employer is for a period of 2 days or less. The Department shall determine the claimant's eligibility for benefits for the week in which the work was offered in accordance with R6-3-5205(7). Examples of employment in which a continuing employer-employee relationship exists are substitute teachers or workers registered with a temporary services agency.
- D.** In subsection (C)(1)(a), a reasonable prospect of other work includes:

1. A definite offer and acceptance of a job to begin at a definite time,
2. A definite promise of a job although the starting date is an estimate by the employer, or
3. The knowledge of a Department representative that jobs will soon be available in the claimant's occupation.

Historical Note

Former rule number - Refusal of Work 5. Former rule repealed, new Section R6-3-5305 adopted effective January 24, 1977 (Supp. 77-1). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

**R6-3-5306. Reserved
thru**

R6-3-5339. Reserved

R6-3-5340. Repealed

Historical Note

Former rule number - Refusal of Work 40. Former rule repealed, new Section R6-3-5340 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-5341. Reserved
thru**

R6-3-53149. Reserved

R6-3-53150. Distance to work (Refusal of Work 150)

Commuting distance

1. Offered work which is beyond reasonable commuting distance generally would not be suitable work unless the distance is customary for the claimant or most workers residing in the same locality as the claimant.
2. Offered work which would require a claimant to move to a new locality beyond reasonable commuting distance generally would not be suitable work. Factors to be considered in determining exceptions include:
 - a. Financial detriment to relocation,
 - b. Family restrictions to relocation,
 - c. Duration of claimant's unemployment,
 - d. Expected duration and wage of offered job,
 - e. Customs of claimant's customary occupation, and
 - f. Prospects of work in customary occupation within reasonable commuting distance.
3. "Beyond reasonable commuting distance" is generally:
 - a. More than 20 miles from the claimant's residence to place of employment, or
 - b. More than one hour elapsed commuting time one way, or
 - c. Commuting expense equal to 15 percent or more of the claimant's prospective gross wage. (The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for official travel as the standard for determining cost of travel to the claimant.)

Historical Note

Former rule number Refusal of Work 150. - 150.2. Former rule repealed, new Section R6-3-53 150 adopted effective January 24, 1977 (Supp. 77-1). Former Section R6-3-53150 repealed, new Section R6-3-53150 adopted effective July 27, 1983 (Supp. 83-4).

**R6-3-53151. Reserved
thru**

R6-3-53169. Reserved

R6-3-53170. Employment office or other agency referral (Refusal of Work 170)**A. General (Refusal of Work 170.05)**

1. A disqualification should not be considered until it is clear that the claimant has had sufficient time to consider the offer or referral. While a claimant should need little or no time to determine whether he will accept work which does not differ from his customary work, he may need substantial time to think over acceptance of other types of work.
2. A statement of preference for a specific type of work is not necessarily a refusal of other work. An attempt by the claimant to get better terms or a more desirable referral without a rejection of the offer should not be considered a refusal.

- B. Failure to report to employment office (Refusal of Work 170.15).** A claimant's failure to respond as directed to a job service call in card or telephone call, regarding a possible referral to employment, shall not be treated as a refusal of work since neither instructions to apply for work nor a definite offer of work was given. The issue in such cases is the claimant's availability for the week in question and should be adjudicated in accordance with R6-3-52160(B) of these rules.

Historical Note

Former rule number - Refusal of Work 170. - 170.15. Former rule repealed, new Section R6-3-53170 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53171. Reserved
thru**

R6-3-53194. Reserved

R6-3-53195. Experience or training (Refusal of Work 195)**A. General (Refusal of Work 195.05)**

1. To avoid downgrading of the claimant's skills, his prior training and experience shall be considered before he is disqualified for refusing work beneath his highest skill.
2. If the claimant has been unemployed for a long time and prospects for work in his usual occupation are not favorable he may reasonably be expected to take other work.

B. Use of highest skill (Refusal of Work 195.2)

1. A disqualification must be assessed when a claimant refuses a referral to employment or an offer of work because it would not utilize his highest skill unless it is shown that his action is reasonable and prudent.
2. The following factors must be considered in determining the reasonableness of the claimant's refusal:
 - a. Length of unemployment.
 - b. Prospects of his obtaining employment in his highest skill.
 - c. Whether acceptance of lesser skilled work would adversely affect his obtaining work in his highest skill.
3. When the claimant's length of unemployment has been short and he has good prospects of obtaining work in his highest skill at an early date, work in a substantially lesser skill would not be suitable. However, if employment in a claimant's highest skill is extremely limited due to economic factors, technological changes, or other labor market conditions, the claimant may be disqualified if he refuses work which is otherwise suitable.
4. For guidelines as to the duration of the period during which a claimant may insist on work in his highest skill see R6-3-53295 of these rules.

Historical Note

Former rule number - Refusal of Work 195. - 195.2.
Former rule repealed, new Section R6-3-53195 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53196. Reserved
thru**

R6-3-53234. Reserved

R6-3-53235. Health or physical condition (Refusal of Work 235)

- A. Illness or injury (Refusal of Work 235.25). Work that would adversely affect an existing physical or mental impairment of the claimant is unsuitable. Evidence such as a medical statement, if practical, should be obtained.
- B. Risk of illness or injury (Refusal of Work 235.45). Any work involving undue risk to the claimant's health, or work that fails to meet the standards of the industry is unsuitable.

Historical Note

Former rule number Refusal of Work 235. - 235.45.
Former rule repealed, new Section R6-3-53235 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53236. Reserved
thru**

R6-3-53264. Reserved

R6-3-53265. Interview and acceptance (Refusal of Work 265)

Failure to accept or secure job offered (Refusal of Work 265.25). A claimant, after accepting a referral, may indicate by his actions that he did not accept it in good faith. He may, for example, without good cause fail to apply for the job, or his attitude and statements to the employer may imply that he is not applying for the job in good faith. Such indications, however, should be clear and definite before the claimant is considered to have refused an offer or referral. Before a disqualification is assessed under such circumstances, it should be clear that the job is suitable for the claimant.

Historical Note

Former rule number - Refusal of Work 265. - 265.25.
Former rule repealed, new Section R6-3-53265 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53266. Reserved
thru**

R6-3-53294. Reserved

R6-3-53295. Length of unemployment

- A. In determining whether work is suitable, consideration must be given to the length of the claimant's unemployment. A claimant should be allowed a reasonable adjustment period in which to find work in his customary or primary occupation. The length of the adjustment period is flexible and should be determined on the basis of all the circumstances of the case. The adjustment period begins with the first week of the claimant's unemployment or return to the labor market, whichever is later. While casual or odd jobs of less than one week's duration do not interrupt the adjustment period, they may serve as an indication of the claimant's prospects of work in his primary skill.
- B. The following are adjustment period limits in which a claimant may refuse without disqualification a referral to or offer of work solely because it does not utilize his primary skill or a skill of comparable level.

Adjustment Period	Skill Level
4 weeks	Unskilled
7 weeks	Semi-skilled
10 weeks	Skilled

- C. When there is no substantial labor market in the claimant's primary occupation, he will be expected to accept other suitable work for which he is qualified regardless of the length of his unemployment.

Historical Note

Former rule number Refusal of Work 295. Former rule repealed, new Section R6-3-53295 adopted effective January 24, 1977 (Supp. 77-1). Amended effective April 6, 1982 (Supp. 82-2).

**R6-3-53296. Reserved
thru**

R6-3-53329. Reserved

R6-3-53330. Offer of work (Refusal of Work 330)

- A. General (Refusal of Work 330.05). Before a claimant may be disqualified for refusing an offer of work, it must be established that:
 1. The job was open,
 2. The work was suitable,
 3. The offer was outright and unequivocal,
 4. The offer was genuine,
 5. The claimant received the offer, and
 6. The claimant received sufficient information concerning the prospective employment.
- B. Time (Refusal of Work 330.3). The time (or date) when an offer of work is made is significant in determining the applicability of A.R.S. § 23-776. When an individual refuses to accept a referral to, or an offer of suitable work subsequent or concurrent to his last employment, the application of this policy must be considered even though the refusal occurs before he files a claim.

Historical Note

Former rule number - Refusal of Work 330. - 330.3.
Former rule repealed, new Section R6-3-53330 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53331. Reserved

R6-3-53332. Reserved

R6-3-53333. Reserved

R6-3-53334. Reserved

R6-3-53335. Offered work previously left or refused (Refusal of Work 335)

- A. Generally, no work shall be deemed suitable if a claimant has previously been disqualified in connection with his separation from such employment or has been previously disqualified for refusing a job offer for such position. However, if he is offered reemployment under substantially different working conditions, or if the circumstances which caused him to separate from the job no longer exist, the work may be considered suitable.
- B. When a worker is offered reemployment in a job which he left for compelling personal reasons, or from which he was separated for non-disqualifying reasons, the circumstances surrounding his separation shall be considered in determining the suitability of the job offer.

Historical Note

Former rule number Refusal of Work 335. Former rule repealed, new Section R6-3-53335 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 3, 1978 (Supp. 78-4).

**R6-3-53336. Reserved
thru**

R6-3-53364. Reserved

R6-3-53365. Prospect of other work (Refusal of Work 365)

- A. A claimant who has reasonable prospects of employment in the near future may refuse other less suitable work with good cause. In general, the more definite the prospect, the more reasonable is the decision to wait for the more acceptable job.
- B. Prospect of obtaining future work may include:
1. A definite offer and acceptance of a job to begin at a definite time; or
 2. A definite promise of a job although the starting date is an estimate by the employer; or
 3. An indefinite statement by the employer that he may have work for the claimant; or
 4. Statement by Job Service personnel; or
 5. General knowledge that jobs will soon be available in a particular industry.

Historical Note

Former rule number - Refusal of Work 365. Former rule repealed, new Section R6-3-53365 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53366. Reserved thru**R6-3-53379. Reserved****R6-3-53380. Polygraph examination requirement**

A claimant may not be denied unemployment insurance benefits for refusing a referral to or an offer of new work if, as a condition of being employed, he must agree to submit to a polygraph examination, either as a pre-employment requirement or at any time during the course of his employment.

Historical Note

Adopted effective October 14, 1981 (Supp. 81-5).

R6-3-53381. Reserved thru**R6-3-53449. Reserved****R6-3-53450. Time -- hours (Refusal of Work 450 - 450.15)**

- A. Prevailing standard, comparison with (Refusal of Work 450.155). Section 23-776(C) of the Employment Security Law provides in part:
- “... Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to an otherwise eligible individual for refusing to accept new work under any of the following conditions: ”. . . 2. If the ... hours of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; . . .”
1. In order to conform with this provision of the Law consideration must be given to prevailing hours in every refusal of work issue. The term “hours” pertains to the number of hours required. The term “substantially less favorable” means less favorable in an economic sense. Thus, prospective employment is not unsuitable merely because it requires work, at hours that are unusual, inconvenient or socially less desirable. The latter factors should however, be considered to determine whether there is good cause for refusal.
 2. The relation between the standard or maximum work week permissible under Arizona or federal laws should be considered. If the regular hours required are in excess of these standards the work is unsuitable. The prevailing work week for similar work in the locality may however, be less than the legal maximum.
 3. All available evidence should be considered in determining the prevailing hours for similar work. The experience of the Job Service, data from state and federal agencies,

experience of unions, and evidence from workers and employers will all be of value. The number of hours worked by the largest number of workers in similar work should be used in arriving at the prevailing hours of work per day or week.

4. Comparison of hours worked in one job with hours in similar jobs should be based on only the normal work day. If overtime is usual and customary for the majority of workers performing similar work in the locality so that the final earnings are materially affected, the amount of overtime probably required of an offered job will need to be compared with that prevailing for other jobs. If it can be established at the time of the offer that the hours of work will be substantially less than those worked in similar jobs so that the earnings will be substantially reduced, the work would be substantially less favorable to the claimant.
5. The key words and phrases used in this rule are defined in R6-3-53350(B) of these rules.

B. Temporary (Refusal of Work 450.55)

1. Temporary work is not rendered unsuitable because of its duration. The fact that the prospective employment is temporary may give good cause for its refusal if:
 - a. Acceptance of temporary work precludes the claimant from returning to work with his regular employer; or
 - b. Acceptance would restrict the claimant from obtaining permanent work which he has good prospects of obtaining; or
 - c. Acceptance would involve expenditures for equipment, union dues or etc., disproportionate to the remuneration to be obtained.

Historical Note

Former rule number - Refusal of Work 450. - 450.55. Former rule repealed, new Section R6-3-53450 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53451. Reserved thru**R6-3-53474. Reserved****R6-3-53475. Union relations (Refusal of Work 475)**

- A. General (Refusal of Work 475.05). A claimant may not be denied benefit for refusing a referral to, or an offer of new work if as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- B. Nonunion shop or supervisor (Refusal of Work 475.55)
1. A.R.S. § 23-776(B) of the Employment Security Law provides in part: “. . . In determining whether or not work is suitable for an individual, the department shall consider ... his ... prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation . . .”
 2. The fact that a union has a rule against a member working for a nonunion employer or on the same job with non-union workers does not of itself make the offered work unsuitable, or provide good cause for refusal.

Historical Note

Former rule number Refusal of Work 475. - 475.55. Former rule repealed, new Section R6-3-53475 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53476. Reserved**R6-3-53477. Reserved****R6-3-53478. Reserved**

R6-3-53479. Reserved**R6-3-53480. Vacant due to labor dispute (Refusal of Work 480)**

- A. Benefits cannot be denied an otherwise eligible claimant for refusing to accept new work if the position offered is vacant due directly to a strike, lock out, or other labor dispute.
- B. A labor dispute is defined in R6-3-56125(A) of these rules. The vacancy may be defined as any unfilled position which is open because it was held by a worker who is participating in the dispute or by a worker whose work is so integrated with that of the workers participating in the dispute that he cannot continue his work as long as the participants in the dispute are not working. Other vacancies may be created when workers are not permitted to work by those participating in the dispute or when there is a reorganization of jobs or creation of new jobs in the establishment involved in the dispute.

Historical Note

Former rule number - Refusal of Work 480. Former rule repealed, new Section R6-3-53480 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53481. Reserved thru**R6-3-53499. Reserved****R6-3-53500. Wages (Refusal of Work 500)**

- A. Prior earnings, comparison with (Refusal of Work 500.35)
 - 1. Whether a claimant has good cause for refusing an offer of work in his customary occupation based solely on the grounds that the wages offered are less than those earned previously depends on:
 - a. Prospect of securing the wages he specifies.
 - b. Length of unemployment.
 - c. Condition of the labor market in his locality at that time.
 - 2. Prior earnings are those received most recently especially, when the claimant has been receiving those earnings for a substantial period. If the worker's most recent earnings cover a brief period, such earnings need not be considered prior earnings unless they represent his present earning ability.
- B. Prevailing rate (Refusal of Work 500.7)
 - 1. No work shall be deemed suitable and benefits shall not be denied to an otherwise eligible individual for refusing to accept new work if the wages of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
 - 2. The key words and phrases are:
 - a. "Similar work." Is work closely related to the job being considered and generally recognized as of the same type. Actual comparison of jobs must be made on the basis of the similarity of the work done without regard to title; that is, the similarity of the operations performed, the skill, ability, knowledge required, and the responsibilities involved. Other factors such as hours of employment, permanency of the work, unionization, vacation, sick, and retirement benefits are conditions of work and should be considered only after the question of what is similar work is decided.
 - b. "Locality." Conditions offered are to be compared with the conditions of similar work in the locality where the work is to be done. In establishing the competitive labor market locality for an occupation, the dominant considerations are the location of the establishments employing similar services; the area from which workers are normally drawn to supply

the needs of these establishments; the commuting practices and ease of transportation in the locality; and the customary migration pattern of the workers in the occupation.

- c. "Wages." The customary practice of the trade in the area should be used in determining what constitutes wages. The comparison of wage rates alone, however, is not always sufficient to determine if the wages offered a claimant is substantially less favorable than those prevailing for similar work in the locality. Earnings are frequently affected not only by the wage rate and hours of work, but also by the method of payment, the overtime practices, and various extra bonuses and premiums. Only by taking all of the factors which would affect the claimant's earnings, and those of most workers in similar employment in the locality into consideration can it be determined whether the wages offered are less favorable than those prevailing.
- d. "Prevailing." The prevailing wage means the most outstanding or commonly paid rate for the largest number of workers enjoyed in similar work in a locality. The model rate has generally been recognized as that prevailing where less than a majority, but as many as 40% of the workers in similar work are paid at the same rate. Therefore, when there is a single rate at which at least 40% of the workers in similar work are employed, that rate is prevailing. In the event there is no 40% mode, the prevailing rate may be determined by using the average or median wage as the standard for comparison, based on the best information available. The prevailing starting rate should be obtained in the same manner as the prevailing rate. The mode, must of necessity, be used in determining the prevailing conditions of work when fringe benefits are involved, since fringe benefits cannot be measured in numbers and cannot be averaged.
- e. "Substantially less favorable." The meaning of the phrase "substantially less favorable to the individual" cannot be determined in terms of any fixed percent age, amount, or degree of difference. Both the actual conditions of the work in question and the extent of the difference, as well as its effect on the worker must be considered. The basis for comparison in each case insofar as they can be determined is the conditions under which the greatest number of workers in the particular occupation are employed in the locality. If the conditions of the offered work and those prevailing are known, it is usually easy to determine whether the difference is of a material or substantial nature or is of no real consequence. However, in borderline cases, where it is not clear whether the difference is material, the claimant should not be subject to a disqualification for refusing work unless it is reasonably certain that the conditions on the job are not substantially less favorable than those prevailing for similar work in the locality.

Historical Note

Former rule number - Refusal of Work 500. - 500.7.
Former rule repealed, new Section R6-3-53500 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53501. Reserved thru**R6-3-53509. Reserved**

R6-3-53510. Work, nature of (Refusal of Work 510)**A. Customary (Refusal of Work 510.1)**

1. Occupation refers to the type of work a claimant was performing and not the industry in which he worked.
2. Customary occupation may be defined as follows:
 - a. The occupation in which an individual has developed his highest skill either through experience, training, or education; or
 - b. The occupation in which he has developed a skill through progressive steps of advancement, even though he has worked in such occupation for a relatively short period of time; or
 - c. The occupation in which he was engaged the longest period of time, when his work history indicates experience in a number of occupations involving related skills; or
 - d. The only occupation in which the claimant has engaged.
3. If during the adjustment period (Refer to R6-3-53295) a claimant has a good prospect of obtaining work in his customary occupation, he would have good cause for refusing other work. Conversely, if it is apparent there is little opportunity of obtaining work in his customary occupation he would not have good cause for refusing suitable work outside his customary occupation.

B. Light or heavy work (Refusal of Work 510.35). To be suitable, the offered work must be within the claimant's physical limitation.**Historical Note**

Former rule number - Refusal of Work 510. - 510.35.

Former rule repealed, new Section R6-3-53510 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53511. Reserved**R6-3-53512. Reserved****R6-3-53513. Reserved****R6-3-53514. Reserved****R6-3-53515. Working conditions (Refusal of Work 515)****A. General (Refusal of Work 515.05)**

1. A worker may reasonably expect working conditions which do not involve undue risk to his health, safety or morals. Although these factors are separate and distinct, a number of considerations apply to all three.
2. Protective standards required by law and governmental regulations must be considered. Work which violates any of these standards is unsuitable.
3. Account should be taken of whether the conditions to which the claimant objects are found commonly in similar work in the community, and whether the claimant is and has been accustomed to such conditions of work.
4. Some risks such as those to morals, may be connected indirectly with the work itself.

B. Environment (Refusal of Work 515.35). Environmental factors could provide a claimant with good cause for refusing an offer of work. Work requiring travel in, or through an unsavory section of a city, for example, could provide a claimant with good cause for refusal, depending on the degree of risk involved.**C. Morals (Refusal of Work 515.5)**

1. Work that would adversely affect the morals of a claimant may be unsuitable. For example:
 - a. Employment by an illegal establishment.
 - b. Employment by a business with a poor reputation, if it is shown that the claimant's moral standards or reputation could be injured.

c. Work that would expose the claimant to considerable temptation (i.e., an alcoholic who is offered employment in a bar).

2. The risks include those indirectly connected with the work itself, thus:

- a. Work by a waitress in a cocktail bar may be unsuitable because of the risks created by the type of patron.

D. Prevailing for similar work in locality (Refusal of Work 515.55)

1. No work shall be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work if the conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
2. Working conditions comprise all phases of the employee's environment such as light, temperature, moisture, ventilation, sanitation, equipment, materials, production arrangements, location, traveling arrangements, and conduct of fellow workers and superiors. These conditions must be weighed against those prevailing for similar work in the locality. Union contracts, state laws, and the prevailing local practice of the industry provide standards which may be used in determining the quality of working conditions.
3. A claimant may refuse an offer of work with good cause if conditions are not substandard, but create an undue hardship on the individual worker.
4. Key words and phrases, and sources of information applicable to this section are included in R6-3-53500(B) of these rules.

E. Safety (Refusal of Work 515.65)

1. Suitability of the job, may be judged by whether the work would be unduly dangerous to the ordinary worker and whether work safeguards meet the standards of the industry.
2. A claimant's personal characteristics, physical limitations, and lack of previous experience are contributing factors which should be examined.

Historical Note

Former rule number - Refusal of Work 515. - 515.65.

Former rule repealed, new Section R6-3-53515 adopted effective January 24, 1977 (Supp. 77-1).

ARTICLE 54. MISCELLANEOUS BENEFIT POLICY**R6-3-5401. Reserved thru****R6-3-5439. Reserved****R6-3-5440. Repealed****Historical Note**

Former rule number -- Miscellaneous 40. Former rule repealed, new Section R6-3-5440 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5441. Reserved thru**R6-3-5459. Reserved****R6-3-5460. Benefit computation factors (Miscellaneous 60)****Disqualification period (Miscellaneous 60.2)**

1. Disqualification begins with the first day of the calendar week during which the claimant left work voluntarily without good cause in connection with the employment or was discharged for misconduct.

2. The date the claimant quit work is the day he severed his employment. The date of discharge is the day the employer terminated his employment.
3. When an employee's separation occurs when he is absent from work, his date of termination is:
 - a. The date one party notifies the other that there will be no return to work.
 - b. The first working day following the expiration date of the leave of absence if the employee fails to return at the end of a leave of absence.
 - c. The date the employer took action to remove the employee's name from the payroll records unless the employee was earlier notified by the employer that his employment was terminated.
 - d. The first working day following the expiration of the leave, if no work is available when the employee returns from the leave.
 - e. The date on which the employee reapplies to the employer for work if it is prior to the end of a specific leave of absence period and no work is available.
 - f. The date on which the employee files a claim for unemployment insurance if on a leave of absence and the employee has not contacted the employer to see if work is available.

Historical Note

Former rule number -- Miscellaneous 60. - 60.2. Former rule repealed, new Section R6-3-5460 adopted effective January 24, 1977 (Supp. 77-1). Amended effective December 17, 1981 (Supp. 81-6).

R6-3-5461. Reserved
thru
R6-3-5469. Reserved
R6-3-5470. Repealed

Historical Note

Former rule number -- Miscellaneous 70. Former rule repealed, new Section R6-3-5470 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 7, 1978 (Supp. 78-4). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective December 20, 1995 (Supp. 95-4).

R6-3-5471. Reserved
R6-3-5472. Reserved
R6-3-5473. Reserved
R6-3-5474. Reserved

R6-3-5475. Claims and Registration**A. Definitions. In this Article:**

1. "Department" means the Arizona Department of Economic Security and any other entity that has an agreement with the Department to provide unemployment insurance and reemployment services.
2. "Itinerant service" means unemployment insurance claims service on a regularly scheduled but less than full-time basis to a locality not within a reasonable commuting distance of an established, full-time claims office.

B. Initial claims. A person who wishes to claim unemployment insurance benefits shall comply with the requirements of this Section.

1. The claimant shall file an initial claim with the Department.
2. The initial claim shall include the following information:
 - a. Personal identifying information about the claimant, including name, aliases, birth date, address, phone

number, occupation, social security number, and citizenship status;

- b. The claimant's employment history including identifying information on the claimant's last employer, the claimant's last date of work, the reason for the claimant's separation from employment, or a statement as to whether the last work was part time;
- c. A statement that the claimant is totally or partially unemployed, and information on the claimant's potential for employment, including:
 - i. A description of the circumstances under which the claimant is willing to accept employment, and
 - ii. The claimant's restrictions to accepting employment;
- d. A statement of other benefits the claimant has obtained or is seeking, including workers' compensation, social security, retirement benefits, unemployment benefits from another state, and employment benefits such as accrued vacation pay;
- e. An acknowledgment that the claimant may be subject to penalty for provision of false statements or information; and
- f. The claimant's signature and date of application.

C. Registration; exemptions. A claimant who files a claim satisfies the registration for work requirements of A.R.S. § 23-771(A)(1). The Department shall require no further registration efforts by a claimant who:

1. Is unemployed due to a labor dispute at the establishment of the claimant's employer but intends to return to work for the employer when the dispute ends;
2. Is temporarily laid off from employment for a known duration of not more than 30 days and has been notified of the date to return to work;
3. Is residing in a geographic area in which the Department does not provide placement services;
4. Is registered for work with a labor union through which workers in the claimant's occupation normally obtain work;
5. Is enrolled in a training course that meets the requirements of A.R.S. § 23-771.01 and A.A.C. R6-3-1809;
6. Is laid off from employment because of the seasonal nature of the claimant's occupation, and the Department has determined that no current placement opportunities exist for the claimant. When the season for the claimant's occupation resumes, the claimant shall register with the Department's employment service.

D. Effective date of claim. Except as otherwise provided in this rule, an initial claim for benefits is effective on the 1st day of the calendar week in which the claimant files a claim.

1. An initial claim for benefits filed at a biweekly itinerant service point is effective on the 1st day of the prior calendar week if the claimant's unemployment began in that week and the claimant reported to file the claim at the itinerant service point on the next regularly scheduled service date.
2. An initial claim filed by mail is effective on the 1st day of the calendar week in which the claimant requested the claim form, if the claimant returns the completed forms within 7 days of the date that the Department mailed or provided the forms to the claimant. In all other cases where the claimant files by mail, the effective date is the 1st day of the calendar week in which the completed forms are mailed to the Department. The mailing date is the date shown on the envelope postmark.

- E.** Earlier effective dates. The Department may give the claim an effective date earlier than the dates described in subsection (D) when:
1. The claimant shows that the Department gave the claimant incorrect information which caused the claimant to delay in filing the claim;
 2. The claimant was unable to timely file a claim because the Department did not provide accessible claim services;
 3. The claimant filed a timely claim against another state; the claim was later cancelled or denied; or the claimant did not qualify for benefits in the other state.
- F.** Cancellation of claims. At the request of a claimant, the Department may cancel a claim that has established a benefit year in any of the following circumstances:
1. When the claimant:
 - a. Has filed a combined wage claim; or
 - b. Has sufficient wage credits in another state to qualify for a claim; and
 - c. Requests cancellation within 15 days of the most recently issued monetary determination; and
 - d. Repays, or agrees to repay, any benefits received from the Arizona claim;
 2. When the claimant is ineligible for benefits because the claimant earned wages in the base period from an employer who contributed to or maintained the claimant's pension plan, and the wages will not be in the base period of a subsequent claim;
 3. When the claimant:
 - a. Initiates a claim during the final week of a benefit calendar quarter;
 - b. Will be eligible for a higher weekly benefit amount in the following benefit calendar quarter; and
 - c. Requests cancellation within 7 days of the start of the new benefit calendar quarter;
 4. Except as provided in subsections (F)(1) through (3), when the claimant initiates a claim but does not file for a week of unemployment, and the claimant will qualify for a higher weekly benefit amount in a subsequent benefit calendar quarter;
 5. The claimant shows that the Department provided the claimant with incorrect information regarding the claimant's potential eligibility at the time the claim was initiated.
- G.** Continued claim for benefits. Except as otherwise provided in A.R.S. §§ 23-761 through 23-766 and A.A.C. R6-3-1405 and R6-3-1809, for each week of unemployment claimed, and in a format prescribed by the Department, a claimant shall timely file a continued claim for benefits or waiting period credit.
1. A continued claim shall include the following information for the applicable claim period:
 - a. A statement of any employment the claimant held and any wages the claimant earned;
 - b. A statement as to the claimant's ability to work, availability for work, and efforts to seek work;
 - c. A statement as to whether the claimant received or refused any offers of work;
 - d. A statement that the claimant understands and acknowledges that the claimant has a duty to notify the Department of changes in any circumstances that may affect the claimant's eligibility for benefits; and
 - e. The claimant's signature or personal identification number.
 2. The claim is timely filed when the Department receives the claim within 14 days of the benefit week ending date. If the claim is mailed, the claim is timely if postmarked within 14 days of the benefit week ending date.
- H.** Untimely claims. The Department shall disallow an untimely claim unless
1. The untimeliness was due to Department error; or
 2. The claimant establishes good cause for the untimeliness. As used in this Section, good cause shall mean that the untimeliness was due to a circumstance beyond the reasonable control of the claimant;
 3. Notwithstanding any other provision of this Section, when the untimely claim is the 1st occurrence in a benefit year, the Department shall not disallow the claim unless the Department finds that the untimeliness was willful. Willfulness is established when:
 - a. The claimant files the claim more than 7 days after the 14-day period specified in subsection (G)(2), and
 - b. The Department has clear and convincing proof that the claimant knew of the filing requirements and deliberately close to ignore them.
- I.** Adjudication and eligibility interviews.
1. The Department may require a claimant to participate in a determination fact-finding proceeding or a periodic eligibility review.
 2. The Department shall give the claimant not less than 5 calendar days' prior written notice when it schedules a proceeding or review.
 3. Except as otherwise provided in this subsection, a claimant who fails to report in person or be available via telephone, as scheduled, for a proceeding or interview is ineligible for benefits for the week in which the appointment was scheduled, until the claimant reports to the Department.
 - a. The Department shall not hold the claimant ineligible if:
 - i. The claimant reports within 3 work days of the scheduled interview, or the end of the same calendar week, whichever 1st occurs; or
 - ii. The claimant had good cause for the failure to report.
 - b. As used in this subsection, good cause includes the following circumstances:
 - i. The claimant was ill,
 - ii. The claimant lacked transportation to the appointment,
 - iii. The claimant had a job interview or work which precluded the claimant from keeping the appointment, or
 - iv. Other similar circumstances beyond the reasonable control of the claimant.
- J.** Reemployment services.
1. The Department may require a claimant to participate in a reemployment service program if the Department determines that the claimant:
 - a. Is likely to exhaust regular unemployment compensation benefits, and
 - b. Needs job search assistance services to make a successful transition to new employment.
 2. If a claimant who is required to participate in reemployment services fails to report to a reemployment service provider, or to fulfill the requirements of the claimant's reemployment service plan, the claimant is ineligible for benefits for the week during which the act of non-participation occurred, unless the claimant establishes good cause for non-participation. Good cause shall include the circumstances listed in subsection (I)(3)(b).

Historical Note

Former rule number -- Miscellaneous 75. - 75.6. Former rule repealed, new Section R6-3-5475 adopted effective

January 24, 1977 (Supp. 77-1). Section repealed, new Section adopted effective December 20, 1995 (Supp. 95-4).

R6-3-5476. Reserved thru

R6-3-5494. Reserved

R6-3-5495. Disqualification; Definition of Last Employment

A. The Department shall determine whether to disqualify a claimant as prescribed in A.R.S. § 23-775(1) and (2) based on the reason for separation from the claimant's last employment when the claimant:

1. Initiates a benefit year;
2. After a period of intervening employment during the benefit year, files a request to reopen the claim; or
3. During a continuous period of filing, is employed and later separates from the employment.

B. In this Section, "last employment" means the claimant's most recent work:

1. Lasting 2 consecutive work days or more during which the claimant worked the normal, customary full-time hours;
2. Lasting 2 days or more in the same calendar week during which the claimant worked the normal, customary full-time hours;
3. Occurring during a calendar week in which the claimant earned wages equal to or exceeding the claimant's weekly benefit amount; or
4. Regardless of whether the claimant performed services or met the requirements of subsection (B)(1) through (3), which the claimant voluntarily left or from which the claimant was discharged.

Historical Note

Former rule number -- Miscellaneous 95, - 95.1. Former rule repealed, new Section R6-3-5495 adopted effective January 24, 1977 (Supp. 77-1). Amended effective June 24, 1981 (Supp. 81-3). Amended effective December 27, 1985 (Supp. 85-6). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-5496. Reserved

R6-3-5497. Reserved

R6-3-5498. Reserved

R6-3-5499. Reserved

R6-3-54100. Extended benefits

A. Work search requirements. Terms used in A.R.S. § 23-634.01 are explained as follows:

1. "Tangible evidence" is a written record of the work-seeking activities of the week, including the employer name and address, the date and method of contact, the individual contacted, the type of work sought, and the outcome of the contact.
2. "A systematic and sustained effort" means the development and employment of a method or plan for seeking work, which is maintained each week. It must represent the course of action a reasonable and prudent person would employ.
 - a. For each week of extended benefits claimed, efforts to find employment must be made on more than one day of the week.
 - b. Registration with Job Service and/or membership in and registration with a union that serves as a hiring agent do not, by themselves, constitute a systematic and sustained effort to find work. This applies even

if the union serves as the hiring agent for most prospective employers in the area. The claimant must, on his own initiative, make an active and independent effort to seek work. The work need not be in claimant's usual occupation, but must be work for which the claimant is qualified by experience or training.

- c. With the exception of jury duty as described in (2)(d) below, an extended benefits claimant cannot establish good cause for failure to maintain a systematic and sustained search for work. The statutory disqualification applies if a claimant does not seek work due to illness, death in family, personal circumstances, or any other reason and claims extended benefits for the week(s). However, an extended benefit claimant may be found eligible under the one work day removal from the active labor force provisions of R6-3-5205(A)(6), (7), and (8) if the overall pattern for the week meets the requirements of a systematic and sustained effort to find work.
- d. A claimant shall be excepted from the requirement of conducting a systematic and sustained work search if prevented from doing so on the basis of his being selected as a member of a jury panel or as a juror in a specific trial.

B. Refusal of suitable work

1. An extended benefits claimant's prospects for obtaining work must be classified either "good" or "not good" before the first extended benefit payment is made. The claimant must be informed of this classification.
 - a. Prospects are "good" -- claimant has a definite prospect of work or a definite date to return to work within six weeks.
Prospects are "not good" -- there is no definite prospect of the claimant returning to work within the next six weeks.
 - b. This classification can be changed at any time during the extended benefit period as circumstances warrant, providing the claimant is informed immediately of the reclassification.
 - c. This classification is not appealable unless it is a part of a determination regarding failure to apply for or accept an offer of suitable work.
2. For claimants classified as prospects are "good" the regular refusal of work provisions of A.R.S. § 23-77(A) and the Refusal of Work sections of these Benefit Policy rules apply.
3. For claimants classified prospects are "not good" the provisions of A.R.S. § 23-776(A) (including disqualification) do not apply. The failure to accept a referral to or an offer of work for a claimant in this classification must be adjudicated under A.R.S. § 23-634.01. The work shall be considered suitable if the claimant is capable of performing it without regard to use of claimant's highest skill and the following conditions are present:
 - a. The gross average weekly wage is equal to or exceeds the claimant's weekly benefit amount plus any applicable supplemental unemployment benefits;
 - b. The wages are equal to or exceed the minimum wage;
 - c. The offer has been listed with the Department of Economic Security, or the employer has provided the offer of work to the claimant in writing;

- d. The claimant will not be required to join a company union or to resign from or refrain from joining a bona fide labor organization;
 - e. The position is not vacant due directly to a strike, lockout, or other labor dispute; or
 - f. The wages, hours or other conditions of the work offered are not substantially less favorable to the individual than those prevailing for similar work in the community.
4. Notwithstanding the provisions of R6-3-53335, there is no limitation to the number of times a claimant classified prospects are "not good" can be disqualified for refusal of the same job provided the offered job is not unsuitable under B.3. above.
- C. Filing extended benefits.** A.R.S. § 23-634(B) limits the payment of extended benefits to two weeks to an individual filing under the interstate benefit payment plan unless an extended benefit period is in effect in the state of filing.
- 1. In applying this statute, the state of filing is the determining factor. In some instances, the claimant may be residing in a state which is in an extended benefit period but may be filing for convenience in a neighboring state not in an extended benefit period. The claimant is not eligible for more than two weeks of extended benefits. This applies even though the actual state of residence may be Arizona.
This statute does not apply to an individual who is temporarily absent from the area of the regular reporting office and files transient or visiting (courtesy) claims. He is considered as filing from his regular local office until an interstate claim is initiated.
 - 2. A claimant who has received two weeks of extended benefits while filing in an agent state not in an extended benefit period may not collect an additional two weeks of benefits by filing in another state not in an extended benefit period. The claimant may, however, receive benefits until the extended benefit award is exhausted if filing in an agent state which is in or enters an extended benefit period.
 - 3. If the claimant is filing from a state in an extended benefit period and this period ends, the claimant is entitled to two further weeks of extended benefits, provided there is a sufficient balance in the extended benefit award and the claimant has not collected benefits for the additional two weeks.

Historical Note

Adopted effective March 17, 1982 (Supp. 82-2).

Amended effective December 27, 1985 (Supp. 85-6).

R6-3-54101. Reserved
thru

R6-3-54339. Reserved

R6-3-54340. Overpayments (Miscellaneous 340)

Administrative penalty -- fraud or misrepresentation (Miscellaneous 340.05)

- 1. Section 23-778 of the Employment Security Law of Arizona provides:
"Any person who, within the 24 calendar months immediately preceding a week in which he files a valid claim for benefits, has made a false statement or representation of a material fact, knowing it to be false, or knowingly failed to disclose a material fact with intent to obtain benefits under this chapter, shall be disqualified for the week for which the claim was filed and for not more than 51 weeks immediately following such week as determined by

the Commission according to the circumstances in each case."

- 2. A claimant shall be disqualified under A.R.S. § 23-778, for the periods shown in paragraph (3) below, if he willfully and knowingly with intent to obtain benefits makes a false statement or representation or conceals a fact, and the true fact concealed by the false statement or nondisclosure is material
- 3. Periods of disqualification are applicable as follows:
 - a. Four weeks disqualification for each week of unreported earnings, up to a maximum of 52 weeks.
 - b. Ten weeks disqualification for false statements on separation, eligibility, refusal of work and other issues.
- 4. The effective date of the administrative penalty is the beginning date of the first otherwise valid waiting week or payable claim filed after the date of the determination which is the basis for establishing that the claimant made a false statement.
- 5. The terms used in the above quoted section of the Law mean:
 - a. False. A statement or representation is false if it is contrary to fact.
 - b. Knowingly
 - i. A false statement or representation is made knowingly if the person making it is aware that it is untrue or if he has no reasonable basis for believing that it is true.
 - ii. A claimant knowingly fails to disclose a fact if he deliberately withholds information which he knows should be disclosed to the Agency.
 - c. Material fact
 - i. A fact is material if in some way it affects the eventual outcome of a transaction. Thus, a fact which, if known, would result in a determination adverse to the claimant, is a material fact.
 - ii. A fact is not material if the failure to disclose it or the intentional misstatement of it would not cause injury. Thus, a fact which, if known, would cause no denial of benefits to the claimant is not material.
 - d. With intent to obtain benefits
 - i. This phrase refers to the claimant's purpose in knowingly making a false statement or representation or in knowingly failing to disclose a material fact. The fact that concealment of a material fact by willful misstatement or nondisclosure occurs in the course of claiming benefits suggests that the claimant's intent was to obtain benefits. In the absence of facts to indicate otherwise it may be assumed such was his purpose.
 - ii. If facts are discovered which indicate a different intent, the conclusions as to the claimant's intent must be based on consideration of all the facts and not merely on an assumption.
- 6. A claimant who inadvertently makes a mistake or omission, or who does not understand his responsibility or the questions asked him, and on the basis of information previously given him, cannot reasonably be expected to understand his responsibility, shall not be disqualified under A.R.S. § 23-778. If at any time during the investigation, it becomes apparent that one of the conditions required by the law, does not exist, the adjudicator must decline application of the administrative penalty.

7. This rule rescinds Unemployment Insurance regulation R6-3-1808 (former 30-7).

Historical Note

Former rule number -- Miscellaneous 340. - 340.05.
Former rule repealed, new Section R6-3-54340 adopted effective January 24, 1977 (Supp. 77-1). Amended effective October 20, 1978 (Supp. 78-5).

- R6-3-54341. Reserved**
thru
R6-3-54406. Reserved
R6-3-54407. Repealed

Historical Note

Former rule number -- Miscellaneous 407. - 407.1.
Former rule repealed, new Section R6-3-54407 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

- R6-3-5501. Reserved**
thru
R6-3-55414. Reserved

R6-3-55415. Self-employment or other work (Total and Partial Unemployment 415)

Salesman, commission (T.P.U. 415.3)

1. The primary issue created when a claimant accepts sales work on a straight commission basis is that of his employment status. It must be determined whether or not he is considered unemployed and potentially eligible for benefits. The eligibility of a commission salesman must be determined from the standpoint of the particular job as well as the intent of the claimant in engaging in selling activities.
2. If a claimant's training, experience, or work history qualify him as a salesman, he may be considered employed and ineligible for benefits if he engages in selling activities. Each such case must be judged on the basis of the facts.
3. A claimant who has lost his customary work and engages in commission sales work, only as a stop-gap measure until work more suited to his training and experience becomes available, is not ineligible solely on the basis of engaging in commission selling.
4. A claimant performing services as a commission salesman, who receives commission payments in an amount less than his weekly benefit amount, may be considered unemployed if:
 - a. The number of hours spent on the job is restricted to less than full time by his employer; or
 - b. It's neither customary nor practical in the community to devote full time to the selling activities; or
 - c. Regardless of the number of hours devoted to the activity, the selling is stop-gap, odd job work outside the customary occupation for which he is qualified and his acceptance of the work will not preclude his obtaining employment more suitable to his experience and training.
5. If a claimant engaged in commission selling is determined to be unemployed he must also meet the test of availability. Refer to R6-3-52160(A) of these rules.
6. Commission payments should be allocated, as other wages, to the week in which the services were performed. However, certain circumstances sometimes arise which make it impossible for the claimant to determine the

amount of wages earned during a given week or whether they will be paid. In such cases the claimant may report commissions as earnings for the week in which they are payable.

Historical Note

Former rule number -- Total and Partial Unemployment 415. - 415.3. Former rule repealed, new Section R6-3-55415 adopted effective January 24, 1977 (Supp. 77-1). Amended effective November 28, 1977 (Supp. 77-6). Amended effective May 8, 1979 (Supp. 79-3). Amended paragraph (4), subparagraph (c) effective November 24, 1982 (Supp. 82-6).

- R6-3-55416. Reserved**
thru

- R6-3-55459. Reserved**

R6-3-55460. Type of compensation (Total and Partial Unemployment 460)

- A. Dismissal or separation pay (T.P.U. 460.35)
 1. Dismissal payments include, but are not limited to, wages in lieu of notice, dismissal payments, and severance payments, and may be in accordance with the contract of employment or an unilateral policy of the employer.
 2. Payments may be made as a lump sum at the time of termination of services in other instances, the employer may continue to include the worker on his payroll for one or more pay periods following the termination of the worker's services.
 3. Section 23-621 of the Employment Security Law of Arizona provides that an employee is unemployed with respect to any week in which he performs no services and with respect to which no wages are payable to him. Therefore, dismissal or separation payments, as shown above, are considered to be payments for past services and shall not be allocated to any period after the separation from work.
- B. Vacation, holiday or sick pay (T.P.U. 460.75)
 1. For the purpose of Unemployment Insurance, payments received for vacation, sick or holiday leave are considered earnings and shall result in denial of benefits if allocated to periods during which claims are filed.
 2. The appropriate period to which vacation, sick, or holiday pay is allocable will be determined in one of the following ways:
 - a. If there was a written or verbal contract between the employer and the claimant in effect at the time of separation, allocate to the appropriate period in accordance with the contract, continuing for the number of work days which the pay would cover at the regular wage rate.
 - b. If no written or verbal contract was in effect, allocate to the appropriate period following the last day of performance of services, continuing for the number of work days which the pay would cover at the regular wage rate.
 3. If in a particular situation the agreement was made for a purpose other than to establish a vacation period (e.g., to prevent payment of UI benefits for an extended period which the pay would not cover at the worker's pay rate), the appropriate period will be determined as in subsection (B) above.
- C. Back pay awards
 1. Unemployment Insurance regulation R6-3-1703 requires employers to report wages of workers for the quarter in which the wages were paid. For the purpose of determining a claimant's eligibility for an unemployment insur-

ance award, wages are allocated to the quarter in which the wages were paid, in accordance with A.R.S. § 23-771(6).

2. For purposes of A.R.S. §§ 23-621, 23-771(6) and 23-779(A) and (B), back pay awards are wages for the period for which the payment is made, irrespective of when paid. This shall not affect the manner in which wages are reported for contribution purposes.
3. For the purpose of this policy, back pay awards include, but are not included to, awards
 - a. Under the Fair Labor Standards Act for unpaid overtime or minimum wages, but not for liquidated damages thereunder; and
 - b. Of the National Labor Relations Board or by private agreement consent or arbitration for loss of pay by reason of wrongful discharge.

Historical Note

Former rule number -- Total and Partial Unemployment 460. - 460.75. Former rule repealed, new Section R6-3-55460 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 24, 1977 (Supp. 77-4).

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

R6-3-5601. Definitions and Explanation of Terms

The following definitions and explanation of terms apply to A.R.S. § 23-777 and Article 56 of this Chapter:

1. "Class" means a number of grades of workers, joined together for a common purpose.
2. "Directly interested in," when used in reference to a labor dispute, means that an employee is a member of a bargaining unit in which the terms or conditions of the employee's work will be directly affected by the outcome of a dispute.
 - a. An employee may be directly interested in the labor dispute even though the employee is not a member of a striking union.
 - b. An employee may be directly interested in a dispute even though the employee offered to continue working, or voted against or otherwise opposed the labor dispute.
 - c. An employee is not directly interested in a dispute if the employee was not in the bargaining unit involved in the labor dispute but may benefit from the labor dispute because the employer's practice is to bring the employment status of all the employees into line with a settlement reached with any particular group of employees.
3. "Establishment" means more than a factory or other business premises and may include combinations or portions of factories or other premises. An establishment is each separate project of an employing unit if the project is a separate activity for the purpose of employment.
4. "Financing," when used in reference to a labor dispute, means that an employee is contributing money to enable workers to strike. Mere payment of union dues is not financing a labor dispute. If all or a portion of the employee's union dues are used to pay strike benefits, or to, in some other way, support the employee's union or another union involved in a labor dispute at the establishment at which the employee is or was last employed, the employee is financing a labor dispute.
5. "Grade" means a particular classification within an occupation, such as apprentice or journeyman.
6. "Labor dispute" means any controversy between employees and their employer over terms, tenure, or conditions of employment, or the association or representation of employees in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment. A labor dispute may exist without a union or a collective bargaining agreement. A strike or a lockout is a form of labor dispute.
7. "Lockout" means that an employer is withholding employment from a group of employees to obtain the employees' acceptance of the employer's terms. A lockout does not require the inclusion of all employees in a particular grade or class. A lockout exists when all the following conditions are present:
 - a. The employer demands some concession from the employees,
 - b. The employer withholds employment in order to gain the concession, and
 - c. The employer intends to resume operations with the same employees when the concession is gained.
8. "Member of a bargaining unit" means any employee or group of employees, whether or not the employees belong to a union or other trade organization, who are members of a grade or class of employees represented by a bargaining unit that engages in bargaining on wages or other conditions of work.
9. "Participating in," when used in reference to a labor dispute at an establishment at which an employee is or was last employed, means that the employee has taken definite action such as stopping work, walking out, striking, picketing, or otherwise lending tangible aid to the worker group directly involved. Membership in a labor organization or union involved in a labor dispute is not participating in the dispute in the absence of other actions.
 - a. An employee participates in a dispute if the employee refuses to cross a picket line at an establishment at which the employee is or was last employed, regardless of whether the employee is a member of the picketing union, if:
 - i. The employee's job was open and work was available so the employee could have worked had the employee crossed the picket line; and
 - ii. The employee's refusal to cross was voluntary. The employee's refusal is not voluntary if the employee risked physical violence by crossing the picket line.
 - b. If the reason for the employee's failure to cross a picket line is respect for the strikers' cause, the employee is participating in the dispute.
10. "Strike" means that employees have stopped working because the employees have not reached an agreement with their employer on terms or conditions for continued employment, or the employer has refused the employees' demands for changes in the terms or conditions of employment. A strike exists when all the following conditions are present:
 - a. The employees have demanded an agreement with the employer or some concession from the employer,
 - b. The employees stop working in order to win the concession, and
 - c. The employees intend to return to work when the agreement with the employer is reached or the concession is won.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5602. Labor Dispute Notice

A. Notice by Employer. An employer involved in a labor dispute, strike, or lockout shall, upon request by the Department, provide the following information:

1. The address of each location affected by the dispute, the date the dispute began, and whether strikers have formed a picket line at each location;
2. The name, address, and business agent of any labor organization involved in the dispute, and the date a contract or agreement with the organization expired;
3. The issues involved in the dispute and the grade or class of employees who:
 - a. Have left work because of the dispute;
 - b. Are not a part of the dispute but are unemployed as a result of the dispute; and
 - c. Are continuing to work; and
4. The name, social security number, and type of work performed by each employee who is unemployed due to the dispute.

B. Notice by Labor Organization. A labor organization involved in the dispute shall, upon request by the Department, provide the following information:

1. A description of the class of workers represented by the labor organization;
2. A summary of the matters in dispute;
3. Whether the labor organization has established a picket line;
4. Whether the members are required to do picket duty; and
5. Whether the members are paid while on strike.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5603. Eligibility During a Labor Dispute

A. When a worker's unemployment results from action taken in anticipation of the labor dispute but occurring before the dispute starts, the worker's unemployment is not due to the labor dispute. The start of a labor dispute does not change the reason for a worker's unemployment if the unemployment preceded the dispute.

B. When a labor dispute begins while a worker is on an approved absence from work, and the worker does not return to work at the end of the absence because of the labor dispute, the worker's unemployment is due to the labor dispute. An example of an approved absence is vacation, sick leave, or other similar reasons.

C. When a worker who is a member of a grade or class of workers participating in, financing, or directly interested in a labor dispute did not go out on strike with the other members, but subsequently became unemployed because the employer limits or stops work as the result of the strike, the worker is unemployed due to a labor dispute pursuant to A.R.S. § 23-777.

D. When an employer can no longer provide work to a worker who is not participating in, financing, or directly interested in a labor dispute because of the absence of other workers who are on strike, the worker is unemployed due to a lack of work as a result of the labor dispute. The Department shall not charge the employer for any benefits paid to the worker while the worker's unemployment is a result of the labor dispute.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5604. Termination of the Labor Dispute Disqualification

A. Discharge During Dispute

1. When, during an ongoing labor dispute, the employer discharges a worker who is unemployed due to a labor dispute,

the Department shall not end the labor dispute disqualification until the employer establishes that the employer took positive and affirmative action to sever the employer-employee relationship, or the worker establishes that the worker:

- a. Has been permanently replaced,
 - b. Abandoned the strike or dispute, and
 - c. Unconditionally offered to return to work.
2. Positive and affirmative action by the employer to sever the employer-employee relationship includes:
- a. Resumption of operations,
 - b. Permanent replacement of the discharged worker,
 - c. Discontinuance of company benefits,
 - d. Transfer of the employer's location, or
 - e. Sale of the business.
3. Notwithstanding subsection (A)(1), the Department shall end the labor dispute disqualification and shall determine the worker's eligibility for benefits in accordance with the provisions of A.R.S. § 23-775(2) and Article 51 of this Chapter when the employer severs the employer-employee relationship because the worker:
- a. Participates in a strike in violation of a no-strike clause in a collective bargaining agreement; or
 - b. Commits violence or unlawful conduct during picketing activities on, adjacent to, or directed at the employer's premises, property, operations, or personnel.

B. Quit During Dispute. The Department shall end the labor dispute disqualification if the Department determines the worker quit employment with a labor-dispute employer and does not intend to return to work at the end of the dispute,

C. New Employment During the Dispute. The Department shall end a labor dispute disqualification when the worker involved in an ongoing dispute has had new employment that began after the start of the labor dispute and the worker establishes the following:

1. The worker accepted the employment in good faith. Good faith means that the worker, in accepting the new work, intended to continue in the job and not return to the former employer at the end of the labor dispute.
2. The worker was employed by the new employer for at least 8 weeks, and in each week the worker earned an amount equal to or exceeding the worker's weekly benefit amount. One or more periods of employment, not necessarily consecutive, with 1 or more employers meets the duration test if the total duration is at least 8 weeks.

D. Termination of Dispute. A labor dispute no longer exists at the time the disputants agree it has ended and are willing to resume operations and return to work.

1. If there is no agreement as to the date a dispute has ended, the Department shall establish an ending date from the dates of the following events:
 - a. The return to normal business operations,
 - b. The end of bargaining meetings, and
 - c. The striking unions' notice of a desire to return to work.

2. When a labor dispute ends, the worker is no longer directly interested in, financing, or participating in a labor dispute. The labor-dispute disqualification ends with the last week in which the labor-dispute disqualification is applicable for any portion of a day within the employer's regular work week.

E. Employer's Chargeability. The Department shall determine chargeability for the claimant's base-period employers during and upon termination of the dispute as prescribed in R6-3-1708(D).

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5605. Repealed**Historical Note**

Former rule number -- Labor Dispute 5. Former rule repealed, new Section R6-3-5605 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5606. Reserved thru**R6-3-5634. Reserved****R6-3-5635. Repealed****Historical Note**

Former rule number -- Labor Dispute 35. - 35.15. Former rule repealed, new Section R6-3-5635 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5636. Reserved thru**R6-3-56124. Reserved****R6-3-56125. Repealed****Historical Note**

Former rule number - Labor Dispute 125. - 125.6. Former rule repealed, new Section R6-3-56125 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56126. Reserved**R6-3-56127. Reserved****R6-3-56128. Reserved****R6-3-56129. Reserved****R6-3-56130. Repealed****Historical Note**

Former rule number - Labor Dispute 130. Former rule repealed, new Section R6-3-56130 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56131. Reserved thru**R6-3-56174. Reserved****R6-3-56175. Repealed****Historical Note**

Former rule number - Labor Dispute 175. Former rule repealed, new Section R6-3-56175 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56176. Reserved thru**R6-3-56204. Reserved****R6-3-56205. Repealed****Historical Note**

Former rule number - Labor Dispute 205. - 205.2. Former rule repealed, new Section R6-3-56205 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56206. Reserved thru**R6-3-56219. Reserved****R6-3-56220. Repealed****Historical Note**

Former rule number - Labor Dispute 220. - 220.1. Former rule repealed, new Section R6-3-56220 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56221. Reserved thru**R6-3-56406. Reserved****R6-3-56407. Repealed****Historical Note**

Former rule number - Labor Dispute 407. - 407.05. Former rule repealed, new Section R6-3-56407 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56408. Reserved thru**R6-3-56444. Reserved****R6-3-56445. Repealed****Historical Note**

Former rule number - Labor Dispute 445. - 445.2. Former rule repealed, new Section R6-3-56445 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 22, 1979 (Supp. 79-2). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective March 17, 1981 (Supp. 81-2). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56446. Reserved thru**R6-3-56464. Reserved****R6-3-56465. Repealed****Historical Note**

Former rule number - Labor Dispute 465. - 465.15. Former rule repealed, new Section R6-3-56465 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56466. Reserved**R6-3-56467. Reserved****R6-3-56468. Reserved****R6-3-56469. Reserved****R6-3-56470. Repealed****Historical Note**

Former rule number - Labor Dispute 470. - 470.1. Former rule repealed, new Section R6-3-56470 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

ARTICLE 57. RESERVED**ARTICLE 58. RESERVED****ARTICLE 59. RESERVED****ARTICLE 60. REPEALED****R6-3-6001. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6002. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6003. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6004. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6005. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6006. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 61. REPEALED**R6-3-6101. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6102. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6103. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6104. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6105. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6106. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6107. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 62. REPEALED**R6-3-6201. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6202. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6203. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6204. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6205. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 63. REPEALED**R6-3-6301. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6302. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6303. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6304. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 64. REPEALED**R6-3-6401. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 65. REPEALED**R6-3-6501. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 66. REPEALED**R6-3-6601. Repealed****Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6602. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6603. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6604. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6605. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6606. Repealed**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

TITLE 6. ECONOMIC SECURITY**CHAPTER 4. DEPARTMENT OF ECONOMIC SECURITY
REHABILITATION SERVICES**

(Authority: A.R.S. § 41-1001 et seq.)

ARTICLE 1. STATE AGENCY ADMINISTRATION

Section	
R6-4-01.	Reserved
	thru
R6-4-100.	Reserved
R6-4-101.	Purpose
R6-4-102.	Agency organization
R6-4-103.	Authority and legal basis
R6-4-104.	Definitions
R6-4-105.	Civil rights
R6-4-106.	Rights of the handicapped

ARTICLE 2. PROVISION OF SERVICES TO INDIVIDUALS

R6-4-201.	General considerations
R6-4-202.	Eligibility, ineligibility and certification
R6-4-203.	Diagnostic study
R6-4-204.	Extended evaluation
R6-4-205.	Individualized written rehabilitation program
R6-4-206.	Provision of VR services

ARTICLE 3. BUSINESS ENTERPRISE PROGRAM

Section	
R6-4-301.	Definitions
R6-4-302.	Participating business facilities
R6-4-303.	Referral for the business enterprise program; qualifications of candidate
R6-4-304.	Screening for acceptance into initial training
R6-4-305.	Initial training
R6-4-306.	Remedial training
R6-4-307.	Upward mobility training
R6-4-308.	Qualifications for placement in a business facility
R6-4-309.	Selection for placement in a business facility
R6-4-310.	Refusal of placement in a facility
R6-4-311.	Licensure
R6-4-312.	Operator's agreement
R6-4-313.	Temporary operator
R6-4-314.	Initial probation
R6-4-315.	Performance probation
R6-4-316.	Continuing inspections of business facilities
R6-4-317.	Exchange of business facilities prohibited
R6-4-318.	Termination of operator's agreement
R6-4-319.	Revocation of license
R6-4-320.	State committee of blind vendors
R6-4-321.	Assessment against net proceeds of operators
R6-4-322.	Guaranteed fair minimum of return
R6-4-323.	Distribution and use of federal unassigned vending machine income
R6-4-324.	Reports and recordkeeping; access to information
R6-4-325.	Appeals

**ARTICLE 4. OTHER RULES AND PROVISIONS THAT
RELATE TO PROVIDING SERVICES TO INDIVIDUALS**

R6-4-401.	Order of selection
R6-4-402.	Service and provider standards, service authorizations, equipment purchasing, Workers' Compensation
R6-4-403.	Economic need and similar benefits
R6-4-404.	Administrative review and fair hearings
R6-4-405.	Confidentiality

ARTICLE 5. RESERVED**ARTICLE 6. SIGHT CONSERVATION PROGRAM**

R6-4-601.	Definitions
R6-4-602.	Eligibility for services
R6-4-603.	Application for services
R6-4-604.	Eye examination; program authorization
R6-4-605.	Provider reports; program authorization for other eye care services
R6-4-606.	Provision of services
R6-4-607.	Public awareness; visual screening
R6-4-608.	Appeals

**ARTICLE 7. REHABILITATION SERVICES TO THE
BLIND AND VISUALLY IMPAIRED**

R6-4-701.	Organization and function of Services for the Blind Section (SBS)
R6-4-702.	Vocational Rehabilitation program
R6-4-703.	Rehabilitation Instructional Services program
R6-4-704.	Repealed
R6-4-705.	Talking Book program
R6-4-706.	Repealed
R6-4-707.	Arizona Industries for the Blind

ARTICLE 8. DISABILITY DETERMINATION SERVICES

R6-4-801.	The Disability Determination Services program
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ARTICLE 1. STATE AGENCY ADMINISTRATION**R6-4-01. Reserved
thru****R6-4-100. Reserved****R6-4-101. Purpose**

These rules and regulations are written and compiled pursuant to A.R.S. § 41-1001(f) (Administrative Procedures Act). The intent of this compilation is to implement and prescribe rules and regulations and to describe the organization, procedure and practice requirements of the Vocational Rehabilitation, Services for the Blind and Disability Certification programs in the state of Arizona. These rules and regulations are written and filed to provide statewide uniformity, equity in the provision of services and an opportunity for public review.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-102. Agency organization

- A.** The Department of Economic Security shall be the sole state agency designated to administer or supervise the administration of the Vocational Rehabilitation, Services for the Blind, and Disability Certification programs.
- B.** The Rehabilitation Services Bureau shall be the single organizational unit responsible for administering the Vocational Rehabilitation, Services for the Blind and Disability Certification programs.
- C.** The Vocational Rehabilitation program's single organizational unit shall be directed by the Bureau of Rehabilitation Services' Chief. As the full-time administrator of the single organizational unit, he is responsible to the Department Director for all program matters and has the authority to carry out state and federal laws and regulations, the State Plan and the policies of

the Department. He is responsible for directing, supervising, developing, interpreting, implementing, monitoring and maintaining all aspects of the programs provided through the single organizational unit, including:

1. Policy decisions and program priorities;
2. The determination of eligibility for and the provision of direct services to clients;
3. Planning for the Department;
4. Financial management operations, including budget development and presentation, the initiation and authorization of expenditures and the allocation and reallocation of service funds;
5. Quality assurance and internal audit of operations;
6. Program standards, including standards for personnel providing services;
7. Personnel management;
8. Staff development and technical training;
9. Information, policies and procedures issued to Department personnel;
10. Reports and program activities required by the federal government;
11. Major communications released to other agencies and to the public;
12. Rehabilitation service contracts and facility development and utilization;
13. Administrative review and fair hearing procedures for applicant or client appeals;
14. Effectiveness and program integrity.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-103. Authority and legal basis

- A. Federal/state Vocational Rehabilitation program:
 1. Rehabilitation Act, P.L. 93-112 as amended;
 2. Social Security Act, Title II, Section 222(d) (SSDI);
 3. Social Security Act, Title XVI, Section 1615 (SSI);
 4. CFR, Title 45, Chapter 13, Parts 1361 and 1362;
 5. R.S.A. Program regulation Guides (DHEW, OHD, Rehabilitation Services Administration);
 6. A.R.S. §§ 23-501(f), 901, 1065.
- B. Additional authority for other rehabilitation programs:
 1. Rehabilitation Instructional Services, A.R.S. § 46-134
 2. Business Enterprises
 - a. Randolph-Sheppard Act, as amended
 - b. A.R.S. §§ 46-134 and 23-504(f)
 3. Talking Book program
 - a. Prater-Smoot Law (P.L. 89-522)
 - b. CFR, Title 44, Chapter 5, Part 501
 - c. A.R.S. § 46-134
 4. Sight Conservation
 - a. A.R.S. §§ 46-134 and 281(f).
 5. Arizona Industries for the Blind
 - a. Wagner O'Day Act, as amended (P.L. 92-28)
 - b. A.R.S. § 15-118(f).
- C. Disability certification. Title II, Section 221 of the Social Security Act (Disability Insurance program), Title XVI, Section 1633 of the Social Security Act (SSI program), P.L. 93-579 Right to Privacy Act.
- D. A.R.S. § 41-1951(f) contains provisions relating to the Department of Economic Security. A.R.S. § 46-134 relates to 281(f) and 311 relates to the Services for the Blind Section.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-104. Definitions

- A. "Act". P.L. 93-112, Rehabilitation Act of 1973, as amended.

- B. "Client". Any individual receiving any services from Vocational Rehabilitation.
- C. "Consultant". Unless stated otherwise, the consultant is the individual hired by the agency for the purpose of providing consultation.
- D. "Counselor". Unless stated otherwise, the counselor is the Vocational Rehabilitation counselor.
- E. "Department". Unless stated otherwise, the Department is the Department of Economic Security.
- F. "Eligible client". Is any individual:
 1. Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and
 2. Who can reasonably be expected to benefit in terms of employability from the provision of VR services or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might reasonably be expected to benefit in terms of employability from the provision of VR services; and
 3. Who has been so certified by a Vocational Rehabilitation counselor.
- G. "Individualized Written Rehabilitation Program (IWRP)". An IWRP is a written program of services developed jointly by the Vocational Rehabilitation counselor and the client who has been determined eligible to receive services. It is a comprehensive document including purposes, goals, responsibilities, services criteria and understandings.
- H. "Rehabilitation Services Bureau (RSB)". Is the organizational unit within DES responsible for the operation of the general Vocational Rehabilitation program, rehabilitation programs for the blind and the Disability Certification program.
- I. "State plan". The approved plan for VR services and for innovative and expansion grant projects agreeing to administer such in accordance with all applicable regulations, policies and procedures established by the Secretary as a condition to receipt of federal funds under Title I of the Rehabilitation Act of 1973, as amended.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-105. Civil rights

Pursuant to the provisions of Title VI of the Civil Rights Act of 1964, as amended, the regulations issued thereunder, and A.R.S. § 41-1461, the Vocational Rehabilitation program, administered by the Department of Economic Security, shall be conducted in such a manner that all persons will be given equal consideration and that no one will be subjected to discrimination under such program on the grounds of race, color, religion, sex, national origin or ancestry.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-106. Rights of the handicapped

Pursuant to Article 5 of the Rehabilitation Act of 1973, no otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

ARTICLE 2. PROVISION OF SERVICES TO INDIVIDUALS

Under this Article are contained the rules that pertain to the provision of services to individuals under the state/federal Vocational Rehabilitation program.

R6-4-201. General considerations

- A.** Scope of Vocational Rehabilitation services to individuals.
1. As appropriate, the following VR services, as described in 45 CFR 401.40(a) will be available to individuals:
 - a. Evaluation of rehabilitation potential;
 - b. Counseling, guidance and referral;
 - c. Physical and mental restoration services;
 - d. Vocational and other training services;
 - e. Maintenance;
 - f. Transportation;
 - g. Services to members of a handicapped individual's family necessary to the adjustment or rehabilitation of the handicapped individual;
 - h. Interpreter services for the deaf;
 - i. Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;
 - j. Telecommunications, sensory and other technological aids and devices;
 - k. Placement in suitable employment;
 - l. Post-employment services necessary to assist handicapped individuals to maintain suitable employment;
 - m. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies; and
 - n. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability.
- B.** Vocational Rehabilitation services shall be provided only by Vocational Rehabilitation personnel and only to clients determined eligible for such services by Vocational Rehabilitation personnel.
- C.** The expenditure of client service funds shall be initiated and authorized only by Vocational Rehabilitation personnel.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-202. Eligibility, ineligibility and certification

- A.** Eligibility is based only on the presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment, and a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.
- B.** Eligibility requirements will be applied without regard to sex, race, age, creed, color or national origin. No group of individuals will be excluded or found ineligible solely on the basis of type of disability. No upper or lower age limit will be established which will, of itself, result in a finding of ineligibility for any individual who otherwise meets the basic eligibility requirements.
- C.** No residence requirement, durational or other, is imposed which excludes from services any individual who is in the state.
- D.** An individual who has been declared eligible for VR services in another state may or may not be eligible for services in this state, and the Arizona VR counselor must redetermine eligibility.
- E.** Any individual referred to VR who freely decides not to apply for services or who indicates expressly or by action that he is not interested in pursuing an application for VR services may be screened out without initiating a case file. A record of such action shall be kept in each local office for at least 12 months.
- F.** The application for VR services shall be a formal declaration by the handicapped individual that he is requesting the assistance of Vocational Rehabilitation agency and its involvement in his rehabilitation effort. Such an application implies that the applicant has a basic understanding of the eligibility require-

ments, knowledge of the kind of services the agency provides, a desire to undertake a rehabilitation program and understanding of both his and the agency's obligations and responsibilities.

- G.** Any individual who has reached the age of 18, or is married, or is in the armed forces, or is living away from home and is self-supporting or who has not had a guardian appointed for him is regarded as an adult and may sign his own application and any other VR documents requiring client signatures. Parent or guardian co-signatures are otherwise required.
- H.** In each instance, there shall be a certification, dated and signed by a VR counselor as to eligibility or ineligibility for services or for an extended evaluation. The certification that the individual has met the eligibility requirements shall be made prior to or simultaneously with acceptance of a handicapped individual for VR services. The certification for extended evaluation and the certification of ineligibility shall be issued pursuant to the requirements of 45 CFR 401.37(b) and (c) respectively.
- I.** An individual determined to be rehabilitated will have been, as a minimum:
 - a. Determined to be eligible;
 - b. Provided an evaluation of rehabilitation potential and counseling and guidance, as essential VR services;
 - c. Provided appropriate VR services in accordance with the individualized written program;
 - d. Determined to have achieved suitable employment which has been maintained for at least 60 days.
2. Post-employment services will be provided to those individuals determined to be rehabilitated who require such services to the extent necessary to maintain suitable employment.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-203. Diagnostic study

- A.** Preliminary diagnostic study
1. In order to determine whether any individual is eligible for vocational rehabilitation services, there shall be a preliminary diagnostic study sufficient to determine:
 - a. Whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and
 - b. Whether VR services may reasonably be expected to benefit the individual in terms of employability or whether an extended evaluation of rehabilitation potential is necessary to make such a determination. It will place primary emphasis upon the determination of a vocational goal for the individual and his potential for achieving such a goal.
 2. Information required for preliminary diagnostic study:
 - a. Each applicant shall have documented in the file a complete medical assessment in order to appraise current general health status. The general medical assessment will include a medical history, thorough physical examination and a routine urinalysis. The decision as to what is current is determined on an individual basis.
 - b. Examinations and diagnostic studies necessary for the agency to determine whether the individual has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.
 - c. In all cases of mental or emotional disorders, an examination will be provided by a physician or by a

certified psychologist skilled in diagnosis and treatment of such disorders.

- d. In cases of alcoholism and drug addiction, evidence from such sources as hospital records, a physician's report, a social summary or treatment facility, records will be necessary to document the existence of these disabilities.

B. Thorough diagnostic study

1. Before implementation of an IWRP for a client, a thorough diagnostic study shall be completed, to include:
 - a. As appropriate, a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other related factors such as personal, vocational and social adjustment, patterns of work behavior, ability to acquire job skills and capacity for successful job performance which bear on the individual's handicap to employment and scope of rehabilitation services needed. The findings of such study(s) must be recorded in client's individual case folders.
 - b. In all cases of visual impairment, an evaluation of visual loss will be provided by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.
 - c. In all cases of blindness, a screening for hearing loss will be obtained from a physician skilled in the diseases of the ear or from an audiologist licensed or certified in accordance with state laws and regulations.
 - d. In all cases of hearing impairment, an evaluation of the auditory system will be obtained from a physician skilled in the diseases of the ear and based on his findings a hearing evaluation may be provided by such a physician or by a licensed audiologist.
 - e. In all cases of deafness, an evaluation of the individual's vision will be provided by a physician skilled in the diseases of the eye or by an optometrist.
 - f. In all cases of mental retardation, a psychological evaluation will be obtained from a psychologist certified by the Arizona State Board of Psychologist Examiners which will include a valid test of intelligence, an assessment of social functioning and educational progress and achievement.
 - g. In all cases where drug addiction or alcoholism are documented as disabilities, evaluation by a certified psychologist or psychiatrist skilled in the diagnosis and treatment of mental or emotional disorders must be obtained.

C. The client shall be offered and given the choice of physicians, psychologists or providers of diagnostic services in all cases with the following restrictions:

1. The counselor, in consultation with medical/psychological and other appropriate consultants and within the limits set by law and described in these regulations, determines both the scope and type of studies and evaluations to be acquired;
2. The individuals chosen to do the necessary diagnostic studies and evaluations must have the minimum qualifications set forth in law and described elsewhere in these rules and regulations (see Section R6-4-302);
3. If the agency has contracted with someone or some group to provide specific diagnostic studies or evaluations, their services must be utilized unless special considerations noted in the file deem it inappropriate to do so;
4. The individuals chosen to do the necessary diagnostic studies and evaluations must also be willing and able to conform to set fee schedules and reporting requirements.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-204. Extended evaluation

- A. An extended evaluation is used for those individuals for whom the presence of a disability which constitutes a substantial handicap for employment has been documented but for whom the counselor is unable to make a determination that services might benefit the individual in terms of employability without an extended evaluation to determine rehabilitation potential.
- B. The full range of VR services will be provided under an IWRP during extended evaluation but for no longer than 18 months and in conformity with 45 CFR 401.36(b) and (c). The individual's progress will be thoroughly assessed as frequently as necessary but at least once every 90 days while services are provided. Periodic reports from those providing services will be considered in this assessment. The extended evaluation will be terminated in accordance with 45 CFR 401.36(e).

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-205. Individualized written rehabilitation program

- A. An individualized written rehabilitation program will be initiated and continuously developed for each handicapped individual eligible for VR services and each handicapped individual being provided such services under an extended evaluation. All VR services will be provided in accordance with such a program. This program will be developed jointly by the VR counselor and the handicapped individual (or, as appropriate, his parent, guardian or other representative). It will emphasize primarily the determination and achievement of a vocational goal. A copy of the written program, and any amendments thereto, will be provided to the handicapped individual, or as appropriate, his parent, guardian, or other representative.
- B. The program shall be initiated after certification of eligibility or certification for extended evaluation. The program will include at least the information described in 45 CFR 401.39(c), as appropriate. The program will be reviewed at least annually, at which time the individual (or, as appropriate, the parent, guardian or other representative) will be afforded opportunity to review the program and if necessary redevelop its terms jointly with the appropriate state agency staff member. When services are to be terminated on the basis of a determination that the individual cannot achieve a vocational goal, the conditions set forth in 45 CFR 401.39(e)(1) and (2) will be met. There will be at least an annual review of the ineligibility decision, in which the individual will be given opportunity for full consultation.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-206. Provision of VR services

- A. Scope and general considerations
 1. Rehabilitation Services Bureau provides all those services included under scope of services outlined in R6-4-201(A) and for which federal government provides financial participation.
 2. No VR services shall be provided to VR personnel or their families without prior review and approval of District VR Program Manager and the Chief of Rehabilitation Services Bureau. All such actions shall also be reviewed by Department of Economic Security administration.

3. Cases and case facts, including the Individualized Written Rehabilitation program, shall be subject to review by VR administrative and consultative personnel.
- B. Restoration services**
1. Physical or mental restorative services shall be provided only by individuals specially qualified to provide such services. The agency has established provider standards which are on file with Rehabilitation Services Bureau and available for review to the public on request.
 2. Any IWRP, Program of Services, which proposes to provide physical or mental restorative services in excess of \$5,000 shall be submitted for review and approval by the District VR Program Manager and consultants, as appropriate.
 3. Restorative procedures that might be considered investigative, controversial or of high risk to the client shall be subject to approval by Rehabilitation Services Bureau administration.
 4. A course of physical or mental restoration shall not extend beyond three months without an assessment of documented progress made towards stated goals. Authorization for additional physical or mental restoration shall be predicated upon acceptable progress to date, and the setting of treatment goals for any subsequent course of therapy.
 5. Authorization for inpatient care at any hospital, rehabilitation center, skilled nursing facility or any other institutions whose primary function it is to provide medical or allied services shall be for a specified period of time. A comprehensive assessment of progress to date and a statement of justification by the treating physician will be required for any extension exceeding 30 days.
 6. Chronic conditions; e.g., diabetes, epilepsy, which were diagnosed and placed on an effective medical regime before an individual becomes a client shall not become the responsibility of VR. The counselor shall not pay for his ongoing health maintenance costs.
- C. Training services**
1. Training services shall be provided to prepare an eligible individual with the necessary skills for employment consistent with the rehabilitation goal.
 2. All training, including OJT's, purchased from private schools or individuals shall be provided under a contract signed by the VR counselor and the trainer or representative of the training institution.
 3. Training services will be provided to prepare a client for placement at entry level requirements. In the case of higher education, VR will normally conclude sponsorship of training with completion of a bachelor's degree. Consideration will be given to the special needs of a severely disabled individual who may require post-graduate training due to an inability to work at entry level.
 4. The VR client shall be given his choice of properly licensed private, technical, business and vocational training schools. The counselor, however, shall also consider:
 - a. Relative costs of training;
 - b. Transportation;
 - c. Living arrangements;
 - d. Other factors bearing on the particular client situation.
 5. VR shall not pay non-resident fees to out-of-state schools if the same training programs are available within the state.
 6. VR may pay non-resident fees to a local school if required and necessary to carry out an IWRP, Program of Services.
7. Training at private, business, technical and vocational schools shall be paid for on a month-to-month basis after the service has been provided. Encumbrances shall be written prior to the provision of training. If a client withdraws from training prior to completion, VR shall pay only for that portion of the training utilized by the client on a prorated basis.
 8. On-the-job training shall be that training purchased under contract from an employer who provides the individual training on the job site. Such arrangements may result in an employer/employee relationship subject to wage and hour laws under the Fair Labor Standards Act.
 9. OJT contracts shall be written only in those instances where the client does not meet the entry and/or production requirements for that job without a period of on-the-job training or unless a period of on-the-job training is necessary to provide an employment opportunity for the individual.
 10. OJT contracts shall be written only for those occupations in which the client, upon successful completion of the on-the-job training, can reasonably be expected to become employed. OJT contracts shall not be written for:
 - a. Occupations in which commissions provide more than 50 percent of client's salary;
 - b. Intermittent seasonal occupations;
 - c. Occupations which require licenses such as therapists, teachers, barbers, cosmetologists, nurses, etc.
 11. Workmen's Compensation Insurance shall be provided by VR for the duration of an OJT contract unless such coverage is provided by the employer.
 12. Wages to be paid the client upon successful completion of an OJT contract shall be comparable to wages of other employees engaged in similar work and at the same production level.
 13. An employer may not have more than 25 percent of his labor force under OJT contracts. If an employer has fewer than four employees, he may be given one OJT contract if he demonstrates the capability of providing the necessary training.
 14. Payment to the employer under an OJT contract shall never be in excess of 50 percent of client's wages averaged over the length of the contract.
 15. All training and adjustment services shall be provided under established standards (see R6-4-302(A) and (B)).
- D. Maintenance**
1. Maintenance means payments, not exceeding the estimated cost of subsistence and provided at any time from the date of initiation of vocational rehabilitation services through the provision of post-employment services, to cover a handicapped individual's basic living expenses, such as food, shelter, clothing and other subsistence expenses. Maintenance is provided only in order to enable a handicapped individual to derive the benefit of other vocational rehabilitation services being provided.
 2. General considerations
 - a. Vocational Rehabilitation is not legally obligated to meet the total costs of living for its clients nor does the budget provide funds to do so. Because of these limitations, maintenance payments are provided only to assist the client with expenses essential to services listed in the client's individualized written rehabilitation program and approved in advance by the Vocational Rehabilitation in an IWRP, Program of Services, except for those maintenance payments necessary to complete diagnostic services.

- b. Maintenance may not be paid out of SSI/SSDI special funds unless it is to defray extra costs of client living away from home because of participation in a rehabilitation program. If a counselor decides to pay regular maintenance for a client eligible for special funds, but not eligible for maintenance under those funds, maintenance must be paid for out of regular funds and are subject to all regulations set forth in this subsection.
 - c. Maintenance checks may be paid directly to the client, to the training agent or to parents or guardian or other representative.
 - d. The counselor must monthly review, adjust, as appropriate, and authorize the disbursement of maintenance checks.
 - e. The combined total of maintenance plus the client's income will never exceed client's actual client monthly obligations.
 - f. Maintenance for a client who must live on campus, in a rehabilitation facility, halfway house, or boarding home may be paid to the college, school or facility directly either for only that portion of maintenance to include room and board or for distribution of total maintenance.
 - g. Maintenance may not be provided for clients pursuing academic college level training as a part-time student, as defined by the school, except in the case of an extended evaluation to determine rehabilitation potential and then only after prior supervisory review.
 - h. Maintenance may never be provided for the sole purpose of meeting total costs of subsistence for clients or to supplement other resource (AD, SSDI, etc.) deficiencies.
 - i. Unusual client circumstances may call for an administrative adjustment by the District VR Program Manager in the rates set on a case-by-case basis.
3. Provision of maintenance
- a. No economic need criteria apply to maintenance provided while client is receiving diagnostic services regardless of status. Maintenance in this case is only that money necessary to defray costs to client during a period away from the home. The amount of maintenance may never exceed the actual costs incurred by the client as a result of participating in the diagnostic study.
 - b. Maintenance as ongoing payments during an IWRP will never, together with client income, exceed established client monthly obligations.
 - i. All liquid assets must be used first.
 - ii. Once liquid assets have been used, the following procedure is used:
 - (1) If client does not meet the economic need criteria, no maintenance may be provided. When the client does meet the economic need criteria, the counselor must complete the Financial Disclosure Statement and compare client's total income to client's monthly obligations;
 - (2) The counselor may provide maintenance payments necessary to assist client with expenses essential to accomplishing the services listed in the client's IWRP up to documented need; i.e., monthly obligations, but never to exceed the maximum allowed.
 - c. Maintenance payments above the basic rate may be approved by the supervisor when they are provided to meet special client needs which are ongoing but not normally considered as usual subsistence requirements. Such special needs may include special diet, ongoing repair and maintenance of assistive devices, ongoing need for medical supplies such as stump socks, catheters, etc. These needs must be documented and explained on the client's IWRP.
4. A counselor may pay for a client's attendant care only as necessary while client is engaged in a program of services. Financial need criteria as well as the need to explore and use similar benefits, if available, apply. Vocational Rehabilitation does not accept responsibility for total costs of attendant care. Vocational Rehabilitation will pay for such care within the following guidelines:
- a. The client must have a doctor's statement regarding the need for and extent of attendant care required.
 - b. For the purpose of computing the amount of Vocational Rehabilitation's contribution, a distinction is made between:
 - i. Training or training-related costs, such as preparation for school, transportation to and from school, assistance while in school.
 - ii. Attendant care not directly related to a specific rehabilitation activity but necessary for health maintenance. Such care can and is often provided by family or friends and should not be paid for by Vocational Rehabilitation unless absolutely necessary, and unless it is a direct cost item to the client.
 - c. Hourly minimum wage shall be paid to attendants; however, Rehabilitation Services Bureau will not contribute more than \$150 monthly for each type of attendant care.
- E. Transportation. In providing transportation monies to the VR client, the following rules shall be applied:
- 1. Client may only be reimbursed for actual costs for transportation and per diem.
 - 2. The counselor shall determine the most economical, yet adequate, mode of transportation available to client.
 - 3. The maximum allowed per diem shall never be more than \$30 a day.
- F. Other services
- 1. The VR counselor shall not purchase for a client automobiles, trucks or any other self-powered vehicles which require licensing by the state. Included in this prohibition is purchasing or contributing to the cost of those accessories or optional equipment normally available by or through automobile manufacturers or dealers in the purchase of a new vehicle.
 - 2. The VR counselor may purchase assistive devices and modifications designed to allow a handicapped individual to use or operate a vehicle either for a new or used vehicle.
 - 3. The VR counselor may purchase or contribute to the purchase, accessories or optional equipment as well as assistive devices and modifications to used or previously purchased vehicles when such are medically prescribed.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

ARTICLE 3. BUSINESS ENTERPRISE PROGRAM**R6-4-301. Definitions**

In this Article the following definitions apply unless the context otherwise requires:

1. "Abandoned facility" means a business facility where a BEP operator has failed to open the facility without good cause for 24 hours.
2. "Agreement for operation of a vending facility" or "operator's agreement" means the written contract between the Department of Economic Security and a business enterprise program operator that regulates the terms and conditions under which the business enterprise shall be managed.
3. "Arizona Participating Operators Committee" or "APOC" means a fully representative committee of blind operators elected biennially by their peers which functions as an integral part of the Business Enterprise Program having active participation in major BEP administrative decisions and policy and program development decisions affecting the overall administration of the state's vending facility program.
4. "Business Enterprise Program" or "BEP" means an organizational unit of the Rehabilitation Services Administration within the Department of Economic Security which is the state licensing agency that provides opportunities for legally blind persons to operate merchandising business facilities in public and other property.
5. "Business Enterprise Program operator" or "BEP operator" means a licensee who enters into an operator's agreement with the BEP to manage and operate a business facility.
6. "Business facility" means a particular place of merchandising identified by the BEP which provides an opportunity to operate a vending facility.
7. "Candidate" means a legally blind client receiving vocational rehabilitation services who is referred to the BEP by a vocational rehabilitation counselor for training and placement.
8. "Certified trainee" means a legally blind client of the Vocational Rehabilitation Program who has successfully completed training and has been certified by the BEP.
9. "Department" means the Arizona Department of Economic Security.
10. "Displaced operator" means a licensee who has operated a business facility in Arizona under the provisions of this Article and is not currently assigned to a business facility as a result of a facility or building closure or medical leave.
11. "Grantor" means the agency that grants a permit to, or enters into an agreement with, the BEP to provide a satisfactory site for the operation of a business facility.
12. "Guaranteed fair minimum of return" means the prevailing federal minimum wage multiplied by a 40-hour work week.
13. "Initial probation" means the first six months after an operator assumes management of his first business facility or a higher level business facility during which time the operator's performance is evaluated for permanent status, termination or performance probation.
14. "Legally blind person" means a person who, after examination by an ophthalmologist, has been determined to have no vision or acuity or has a central visual acuity of 20/200 or less in the better eye, with the best correction by single magnification, or who has a field defect in which the peripheral field has been contracted to such extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.
15. "Licensee" means a legally blind person who has been licensed by the Department to operate a business facility.
16. "Net proceeds" means the amount remaining after the deduction of business expenses from all income accruing to a BEP operator from the operation of a vending facility.
17. "Performance probation" means a period of time not exceeding six months during which a business facility operator who is not on initial probation shall correct documented, unacceptable performance or deficiencies upon written notice by the BEP.
18. "Rehabilitation Services Administration" or "RSA" means the organizational unit within the Department which is responsible for the administration of the Vocational Rehabilitation Program for the Blind and Visually Impaired.
19. "Temporary Business Enterprise Program operator" or "temporary operator" means an individual who contracts with the Department to operate a business facility for a specified period of time and who may or may not be a legally blind person.
20. "Trainee" means a candidate who has been accepted into and is receiving training from the BEP prior to placement and licensure.
21. "Upward mobility training" means additional training that enhances a BEP operator's work opportunities.
22. "Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees, and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such state.
23. "Vocational rehabilitation counselor" or "counselor" means the person in the Vocational Rehabilitation Program (VR) who determines the appropriateness of its clients for referral to the BEP.

Historical Note

Former Section §6-4-301 renumbered to R6-4-401, new R6-4-301 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-302. Participating business facilities

- A. The Business Enterprise Program (BEP) shall conduct surveys of public or other properties upon written request of the owner or management or as determined necessary by the Department to determine merchandising opportunities for licensees. The survey shall include the following information:
 1. Identification of location and nature of site and contact person.
 2. Demographics of site to include building population, work hours, nature of work, salary range, and locally, other selling locations, existing merchandise and vending machines.
 3. The proposed business recommended by BEP, including suggested merchandise, number of employees, anticipated volume, hours of operation and current purchasing patterns.
- B. The BEP shall, following consultation with APOC, determine through these surveys if a public or other property meets the requirements for a satisfactory site for a merchandising business.
- C. If a surveyed property meets the requirements as a satisfactory site for a merchandising business, a written agreement shall be entered into between the Department and the grantor.

- D. The BEP shall provide each business facility with suitable equipment, adequate initial stock, utensils, and cash necessary for the establishment and operation of the facility. The operator shall return the equipment, stock, utensils and cash upon surrender of the facility.
- E. Unless otherwise agreed, the BEP shall maintain all business facility equipment in good repair and shall replace worn-out or obsolete equipment to assure the continued operation of the facility.
- F. Title to the BEP-purchased equipment and stock shall remain with the BEP until disposed of in accordance with law. When title to the equipment and stock is vested in the BEP operator, procedures and responsibility for providing the necessary maintenance or replacement shall be prescribed by the BEP in the operator's agreement.

Historical Note

Former Section §6-4-302 renumbered to R6-4-402, new
R6-4-302 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-303. Referral for the business enterprise program; qualifications of candidate

- A. A client of the Department's Vocational Rehabilitation Program who expresses interest in participating in the BEP program shall be referred to the BEP by a vocational rehabilitation counselor when it is determined that referral is appropriate following medical and vocational assessments, consultation with the client, and completion of an application packet.
- B. As a part of referral each client shall complete an application on a form prescribed by the BEP which shall include the following:
 1. Identifying information including name, address, telephone number and date of birth.
 2. Medical information including visual acuity and diagnosis.
 3. Education and work experience.
 4. Mobility and communication functioning levels.
- C. The counselor shall attach the following to the application if applicable:
 1. Vocational assessments.
 2. Psychological evaluation.
- D. The counselor shall also determine and document that the client is
 1. legally blind,
 2. at least 18 years old,
 3. a citizen of the United States,
 4. able to function independently in business to the degree that the client's needs have been addressed by VR,
 5. medically stable with all necessary physical restoration services completed.
- E. BEP shall review application packets for completeness and shall return incomplete packets to VR.
- F. Completed packets shall be referred to the screening committee.

Historical Note

Former Section §6-4-303 renumbered to R6-4-403, new
R6-4-303 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-304. Screening for acceptance into initial training

- A. The screening of a candidate shall be conducted by a committee which shall consist of:
 1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of the Arizona Participating Operators' Committee (APOC).
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The com-

mittee chairman shall consult with the chairman of APOC before casting his vote.

- 4. The referring vocational rehabilitation counselor, who shall have no vote.
- B. The screening shall consist of a review of the candidate's case history and an interview with the candidate relating to voluntary participation in the BEP program and the candidate's job qualifications. The committee shall then vote to accept into training, or reject the candidate and return to VR for further services as appropriate to assist the candidate in meeting the program criteria.
- C. The determination of the screening committee shall be provided to the candidate in writing. In the event of rejection the determination shall contain the reasons for the determination, recommendations for remedying any deficiencies, and provide notice of the right to appeal.

Historical Note

Former Section §6-4-304 renumbered to R6-4-404, new
R6-4-304 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-305. Initial training

- A. Once accepted into training, a candidate shall be trained for one or more of the three levels of business facility operations, beginning with level one. The course content, objectives and length of training shall be developed for each level by the BEP with the active participation of APOC. Only upon satisfactory completion of the level and granting of a certificate for that level shall the trainee be permitted to proceed to the next higher level.
- B. At level one, training shall cover business facilities, such as snack bars, vending banks, and gift shops at which food is not prepared, and shall orient the trainee to basic business and merchandising principles, the parameters of the BEP program, and the applicable provisions of federal regulations and state law. On-the-job training shall also be provided in existing business facilities of this type.
- C. At level two, training shall cover business facilities such as coffee shops at which limited food preparation occurs. On-the-job training shall be provided at appropriate, existing, level two facilities.
- D. At level three, training shall cover cafeterias providing a variety of prepared foods and beverages. On-the-job training shall be provided at appropriate, existing, level three facilities.
- E. With respect to completion of each level:
 1. If a trainee misses five days or more of training without good cause whether consecutive or not, he shall be terminated. Good cause shall mean temporary illness of the trainee or family crisis.
 2. If, during training or following completion of any level of training, it becomes apparent that the trainee lacks sufficient skills, knowledge, experience, health or other abilities, the BEP shall review the case, consult with the counselor, APOC, and the trainee, and either:
 - a. revise the training plan as needed; or
 - b. terminate the training and return the trainee to VR for further services as appropriate.
 3. A trainee who satisfactorily completes a level of training shall be certified by the BEP. The term of the certificate shall be indefinite except as addressed in subsection (G).
- F. A determination to terminate shall be provided to the trainee in writing and shall state the reasons for the determination, recommendations for remedying any deficiencies, and notice of the right to appeal.
- G. Any trainee who is not placed in a business facility within 12 months of the date of certification shall receive appropriate

training, following an evaluation of proficiency, in order to maintain certification.

- H.** Operators licensed as of the date of the adoption of these rules shall be exempted from the initial training required for their current level of facility operation.

Historical Note

Former Section §6-4-305 renumbered to R6-4-405, new R6-4-305 adopted effective May 7, 1990 (Supp. 90-2).

R6-4-306. Remedial training

- A.** When the BEP determines that remedial training is required to correct identified problems or deficiencies to assist a BEP operator, it shall develop a specialized program with the active participation of APOC to address those concerns. The BEP operator may be placed on performance probation pursuant to A.A.C. R6-4-315 pending satisfactory completion of the remedial training.
- B.** Any BEP operator who has surrendered his license for a period exceeding 12 months and wishes to return to the BEP shall be evaluated by the BEP, in consultation with APOC, to determine the level for which he shall be certified or any remedial training needed.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-307. Upward mobility training

- A.** At least once a year the BEP shall offer special training programs to BEP operators which shall be developed with the active participation of APOC and shall include education in new program developments or business and merchandising techniques and additional training to improve work performance.
- B.** BEP shall offer training to operators for promotion opportunities pursuant to A.A.C. R6-4-305(A).

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-308. Qualifications for placement in a business facility

- A.** When a business facility becomes available the BEP shall:
1. notify each BEP operator and certified trainee in writing of the opportunity to request placement in a location by filing an application. The notice shall be mailed at least 15 calendar days prior to the announced closure of the filing period;
 2. accept any timely filed written application which contains a statement of interest in placement in the facility.
- B.** A qualifications committee shall consider each applicant's record on file with the BEP, together with the application and any supporting documents. The committee shall be comprised of:
1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of APOC.
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
- C.** Qualifications of a BEP operator or a certified trainee for placement in a business facility shall be determined based upon:
1. For a BEP operator:
 - a. Compliance with the BEP operator's agreement and with the provisions of this Article.
 - b. The existence of no more than two substantiated customer complaints during the prior six month

period. Only written and signed complaints shall be considered.

- c. Maintenance of a level of inventory adequate for the location in which the operator is currently placed.
 - d. Degree of profitability of a facility under the operator's management.
 - e. Involvement of the operator in training and seminars.
 - f. Attendance at the last all operators meeting.
- 2.** For a certified trainee: relevant knowledge, skill, training, prior experience or education, and the performance of the individual during training.
- D.** The committee shall make its determination by majority vote within 30 calendar days from the closure of the filing period.
- E.** Each applicant shall be notified by the BEP within seven calendar days of the committee's determination. For those applicants found disqualified, the notification shall be in writing and shall include the reasons for the disqualification, and notice of the right to appeal.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-309. Selection for placement in a business facility

- A.** Those BEP operators and certified trainees who qualify shall be considered for placement in a facility by a selection committee which shall consist of:
1. Two voting BEP staff members.
 2. Two voting BEP operators appointed by the chairman of the Arizona Participating Operators' Committee (APOC).
 3. The BEP supervisor shall act as the chairman of the committee. He shall vote only in the event of a tie. The committee chairman shall consult with the chairman of APOC before casting his vote.
 4. The grantor, who may attend the meeting but shall not vote.
- B.** Selection shall be based upon the applicant's qualifications as well as upon an interview with each candidate on factors related to the work including demonstrated management skills, ability to handle increased responsibilities, and any past comparable work experience. In addition, the committee shall consider applications in the following order from the highest priority for placement to the lowest:
1. Any displaced operator who managed a business facility at a comparable level.
 2. Any BEP operator who is no longer on initial probation.
 3. Any BEP operator who is on initial probation.
 4. Any trainee certified for the level of the available facility.
- C.** If no qualifying applicant can be recommended for placement, a temporary operator shall be placed by the BEP pursuant to A.A.C. R6-4-313.
- D.** Applicants shall be notified of the decision by the BEP within seven calendar days of approval of the selection. Those applicants who have not been selected shall be notified in writing of the reasons for the rejection and notice of right to appeal.
- E.** If the facility becomes available again within 30 calendar days of selection, or if the selected operator refuses the placement, the Supervisor of the BEP shall request another selection from the committee within the order of priority.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-310. Refusal of placement in a facility

- A.** Any BEP operator, certified trainee or displaced operator who applies and is selected for placement in a business facility and then refuses the placement without good cause shall not be considered for any new placement for 90 calendar days.

- B.** For purposes of this section good cause shall include temporary illness of the individual, family crisis, or a facility location that is inaccessible by public transportation.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-311. Licensure

- A.** A BEP business facility shall be operated only by a licensed BEP operator with the exception of a temporary operator pursuant to A.A.C. R6-4-313.
- B.** Once a person is selected for placement in a business facility, a license shall be issued to that person by the Department which shall remain in effect unless revoked or surrendered by the BEP operator. The license shall specify the name of the BEP operator, the level of the business facility for which the license is issued, issuance date, the signature of the authorized Department representative and contain a warning that the license shall not be transferred.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-312. Operator's agreement

A standard operator's agreement shall be developed by the BEP in active participation with APOC. A new standard operator's agreement shall not be adopted before APOC has an opportunity to present the proposed agreement to the operators for input at an all operators meeting, following which additional discussions between BEP and APOC shall be conducted if needed. A BEP facility shall be operated only by a person who has executed an agreement for operation of a business facility with the Department.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-313. Temporary operator

- A.** A temporary Business Enterprise Program operator shall be recruited for placement in a business facility by the BEP, after consultation with the chairman of APOC, for a six-month period:
1. when a facility is abandoned; or
 2. in the event no qualified legally blind person applies for assignment to a business facility; or
 3. in an emergency.
- B.** The placement of a temporary operator may be extended on a monthly basis until such time as a qualified legally blind person is available.
- C.** The BEP shall consider placement of a temporary operator in the following order from the highest priority to the lowest:
1. A displaced operator who managed a business facility at a comparable level.
 2. A certified trainee for a comparable level who is not currently operating a business facility.
 3. An operator who is currently managing a business facility at a comparable level.
 4. A displaced operator who managed a business facility at a lower level.
 5. A certified trainee for a lower level who is not currently operating a business facility.
 6. A vocational rehabilitation client who is a legally blind person.
 7. A vocational rehabilitation client who is visually impaired.
 8. A vocational rehabilitation client with a disability other than visual.
 9. Any other person.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-314. Initial probation

- A.** A BEP operator who is placed in his first business facility or in a higher level business facility shall be placed on initial probation for six months to assure compliance with the operator's agreement, the provisions of this Article, and applicable law.
- B.** During the probationary period, the BEP shall conduct unannounced on-site inspections at least twice monthly. Upon the inspector's arrival, the operator shall be notified.
- C.** At the conclusion of each site inspection, a facility inspection report shall be completed which identifies the conditions found, any deficiencies requiring corrective action, and which contains a statement of the required standard and any recommendation to bring the operator into compliance. The inspection report shall be read to the operator who, after signing the report, shall receive a copy.
- D.** At the end of the six-month period, the BEP, following consultation with APOC, shall notify the operator in writing of either satisfactory completion of probation, of placement on performance probation or termination of the operator's agreement.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-315. Performance probation

- A.** When the operation of a business facility is adversely affected by the deteriorated performance of the BEP operator, the operator shall be placed on performance probation by the BEP, following prior notification to the APOC chairman, for no longer than six months.
- B.** Deficiencies shall be identified as follows:
1. By a substantiated, written and signed complaint from any member of the public which has been filed with the Department; or
 2. By the BEP during on-site inspections.
- C.** An operator shall be given written notice of placement on performance probation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable agreement sections or legal provisions. It shall identify the corrective action to be taken, the length of the probation, the consequences of failure to timely complete the corrective action, and notice of right to appeal.
- D.** At the end of the performance probation period:
1. if the required corrective actions have been taken by the BEP operator, written notice of satisfactory completion and lifting of probation shall be immediately issued by the Department;
 2. if the required corrective actions have not been taken by the BEP operator, the Department, following notification to the APOC chairman, shall terminate the operator's agreement.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-316. Continuing inspections of business facilities

The Department shall conduct inspections for the health, safety and welfare of the public, with or without notice, throughout the existence of an operator's agreement, and shall take any appropriate action to assure the operator's compliance with the operator's agreement, this Article, and applicable law.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-317. Exchange of business facilities prohibited

There shall be no exchange of business facilities between BEP operators. Any placement in a facility shall be made pursuant to this Article.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-318. Termination of operator's agreement

- A. An agreement for operation of a business facility shall be terminated:
 1. under the terms of the agreement,
 2. by failure to meet conditions of initial or performance probation,
 3. upon revocation or surrender of a license,
 4. upon termination of the grantor agreement,
 5. when the BEP operator abandons the facility.
- B. The BEP operator shall be given written notice by the BEP, following notification to the APOC chairman, of termination of the operator's agreement. The notice shall be by certified mail, return receipt requested, or in person and shall state the grounds for the action, refer to any applicable provision of law or agreement, and advise the operator of the right to appeal.
- C. Upon termination of an operator's agreement, the BEP shall reconcile all records and inventoried items for which the operator was responsible. The report of the reconciliation shall be transmitted in writing to the BEP operator or his estate within 90 calendar days from termination of the operator's agreement and shall include notice of the right to appeal.
- D. Termination of the agreement shall not relieve the operator of any business obligations existing as of that date.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-319. Revocation of license

- A. The following shall be grounds for the revocation of a BEP operator's license:
 1. The operator is not in compliance with the requirements of this Article, contractual agreements or any applicable federal or state statute or rule.
 2. There is a deliberate material misrepresentation to the Department by the operator relating to the BEP.
 3. The operator uses alcoholic beverages or illegal drugs while engaged in the operation of the business facility or operates the business facility while under their influence.
 4. The operator neglects or refuses to timely provide information, including reports, and to timely transmit assessments required by this Article.
 5. The operator abandons the business facility or fails without just cause to open the facility for business at the scheduled hours without prior notice to the BEP.
 6. The operator is convicted of a felony while participating in the program.
 7. The operator no longer meets the qualifications for participation in the BEP due to:
 - a. improvement of vision to the degree that he is no longer a legally blind person,
 - b. change of citizenship from the United States,
 - c. inability to meet the physical or emotional demands of operating a business facility following evaluation by the BEP.
- B. The BEP operator shall be given written notice, following notification to the APOC chairman, of the Department's revocation by certified mail, return receipt requested, or in person. The notice shall state the grounds for the action and shall refer to any applicable provision of law, rule or agreement, and it shall advise the operator of the right to appeal.

- C. The revocation of an operator's license shall not relieve the operator of any business obligations existing as of that date.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-320. State committee of blind vendors

- A. In Arizona, the Arizona Participating Operators Committee (APOC) shall be the state committee of blind vendors which shall actively participate in the Business Enterprise Program as provided below and elsewhere in this Article.
- B. APOC shall enact bylaws consistent with this Article and any applicable regulatory or statutory provisions and provide BEP with a copy.
- C. In fulfilling its ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program, the Department shall assure that APOC shall actively participate in the BEP through the following:
 1. The rulemaking procedures outlined in A.R.S. § 41-1001 and following.
 2. The receipt and transmittal to the BEP of grievances filed in writing with APOC at the request of BEP operators, and at the discretion of the BEP operator, the appearance of a member of APOC as his representative at any hearing within the Department pursuant to this Article.
 3. The review, consideration and involvement in the program's decision making through membership on committees established by this Article.
 4. By working with the BEP to establish training curricula and by serving as lecturers, faculty members, or in other roles at such training.
 5. In addition, the BEP shall consult with APOC when advice and counsel may be of assistance to the program and Arizona's BEP operators.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-321. Assessment against net proceeds of operators

- A. The BEP shall set aside funds from the net proceeds of the operation of a business facility based on a monthly assessment schedule determined after consultation with APOC and approved by the Secretary of the U.S. Department of Education. The currently approved monthly assessment schedule is:

Net Proceeds	Assessment Schedule
First \$400	2%
\$401-\$500	\$8.00 plus 5%
\$501-\$600	\$13.00 plus 10%
\$601-\$700	\$23.00 plus 15%
\$701 and over	\$38.00 plus 20%
- B. The funds set aside from the operator's monthly assessment shall be used only for the purposes stated in 34 CFR 395.9(b) (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-322. Guaranteed fair minimum of return

- A. A guaranteed fair minimum of return shall be granted to a BEP operator by the BEP if the net proceeds over three consecutive months average less than the prevailing federal minimum wage and if the reason for the low net proceeds is beyond the control of the operator as determined by the BEP, following consultation with APOC. The need for a guaranteed fair minimum of return may be reflected in the monthly operator's report pursuant to A.A.C. R6-4-324(B) or may be requested by the BEP operator.

- B. The BEP shall notify the BEP operator of approval or denial of the request for a fair minimum of return within 15 calendar days of the operator's request.
- C. Any denial by the BEP of a guaranteed fair minimum of return to a BEP operator shall be reduced to writing and issued by certified mail, return receipt requested, or in person and shall include the reasons for the determination and notice of the right to appeal.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-323. Distribution and use of federal unassigned vending machine income

Federal unassigned vending machine income shall be used for BEP operator benefits as determined by a majority vote of all BEP operators in the state at an all operator's meeting, and as limited by 34 CFR 395.8 (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State. Any federal unassigned vending machine income not necessary for such purposes shall be used by the BEP for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum of return to vendors.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-324. Reports and recordkeeping; access to information

- A. The BEP operator shall maintain financial records of all operations in accordance with generally accepted accounting principles. These records shall be available for inspection by the Department and shall be retained by the operator at least five years unless involved in an audit by the Department. In case of an audit the records shall be retained until the audit is closed and any appeals finalized.
- B. Each BEP operator shall submit to the Department a monthly operator's report by the date posted on the monthly billing statement issued by BEP to each operator. The operator's report shall be on a form prescribed by the Department, in consultation with APOC, and shall include the following information:
 1. Gross sales which shall include the total of all sales of goods plus vending machine income.
 2. Allowable business expenses.
 3. Net profit.
 4. Amount of monthly assessment.
- C. Monthly assessments which are due and owing to the Department shall accompany the monthly operator's report in the form of a personal check if an insufficient funds check has not been submitted in the preceding 12 months, otherwise by certified check or money order.
- D. Each BEP operator shall submit to the Department an annual inventory report which shall be on a form prescribed by the Department.
- E. Each BEP operator shall furnish copies of any records and accounts pertaining to the operation of a business facility requested by the Department.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

R6-4-325. Appeals

- A. A BEP candidate, trainee, or operator adversely affected by any decision made by the BEP shall have recourse to an administrative review and fair hearing pursuant to A.A.C. R6-4-404 except that, for a BEP candidate or trainee, the decision of a hearing officer may be reviewed by the Department in accordance with 34 CFR 361.48(c)(2)(iv) (July 1, 1988),

incorporated by reference and on file with the Office of the Secretary of State. The decision of the hearing officer shall be final 20 days from the mailing of the hearing officer's decision if no further action is taken by the Department. For a BEP candidate or trainee, a final decision may be appealed through judicial review pursuant to A.R.S. § 12-901 et seq.

- B. A final decision of the Department may be appealed by a BEP operator either through judicial review pursuant to A.R.S. § 12-901 et seq. or through the Secretary of the U.S. Department of Education pursuant to 34 CFR 395.13 (July 1, 1988), incorporated by reference and on file with the Office of the Secretary of State.

Historical Note

Adopted effective May 7, 1990 (Supp. 90-2).

ARTICLE 4. OTHER RULES AND PROVISIONS THAT RELATE TO PROVIDING SERVICES TO INDIVIDUALS

Under this Article are contained the rules related to the provision of services to individuals under the state/federal Vocational Rehabilitation program but are more general in scope than Article 2.

R6-4-401. Order of selection

- A. The order of selection is an organized, equitable method for serving selected groups of handicapped individuals in their order of priority if all eligible individuals who apply cannot be served.
- B. The state agency shall maintain the following order of selection:
 1. The severely handicapped (as defined by R.S.A. Chapter 3005.00, Statistical Reporting System);
 2. The disabled public assistance recipients;
 3. The deaf-blind. This target group population is comprised of those handicapped individuals who are:
 - a. Visually impaired within the definition used by SBS for eligibility for Vocational Rehabilitation services;
 - b. Deaf to the extent that the individual is not able to hear normal speech with or without amplification or not expected to be able to do so in the near future as a result of a progressive disease process; and
 - c. Who need services not available traditionally in programs serving either one or the other of disability groups alone.
 4. The developmentally disabled
 - a. The term "developmental disability" means a disability of a person which:
 - i. Is attributable to mental retardation, cerebral palsy, epilepsy or autism;
 - ii. Is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or
 - iii. Is attributable to dyslexia resulting from a disability described in subdivision (i) or (ii) of this subparagraph;
 - b. Originates before such person attains age 18;
 - c. Has continued or can be expected to continue indefinitely; and
 - d. Constitutes a substantial handicap to such person's ability to function normally in society.
 5. All other eligible vocationally handicapped individuals with the state.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-301 effective May 7, 1990 (Supp. 90-2).

R6-4-402. Service and provider standards, service authorizations, equipment purchasing, Workers' Compensation**A. Provider standards**

1. Providers of medical diagnostic and restorative services must, as a minimum, meet the following definitions:
 - a. "Dentist". Dentist means a person licensed to practice dentistry or dental surgery under Chapter 11, Title 32 of the Arizona Revised Statutes.
 - b. "Dispensing optician". Dispensing optician means any person who is licensed under Chapter 15, Title 32 of the Arizona Revised Statutes to dispense lenses, contact lenses, frames, artificial eyes, optical devices, appurtenances thereto or parts thereof to the intended wearer on written prescription from a duly licensed physician or optometrist.
 - c. "Occupational therapist". Occupational therapist means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association or has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary except that such determination of proficiency shall not apply with respect to persons initially licensed by a state or seeking initial qualifications as an occupational therapist after December 21, 1977.
 - d. "Optometrist". Optometrist means a person who is licensed to practice optometry under Chapter 16, Title 32 of the Arizona Revised Statutes.
 - e. "Orthotist and/or prosthetist". Orthotist and/or prosthetist means a person who is certified by the American Board for Certification for Orthotics and Prosthetics, Inc.
 - f. "Physical therapist". Physical therapist means a person registered to practice physical therapy under Chapter 19, Title 32, Arizona Revised Statutes.
 - g. "Physician". Physician means a person licensed under Chapter 13 or 17, Title 32, Arizona Revised Statutes.
 - h. "Physician specialist". For purposes of this program, a specialist is a licensed physician who limits his practice to specialization and who:
 - i. Is a diplomat of the appropriate American or Osteopathic Board; or
 - ii. Is a fellow of the appropriate American Specialty College or a member of an Osteopathic Specialty College; or
 - iii. Has been notified of admissibility to examination by the appropriate American Board or Osteopathic Board or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association and has not lost his eligibility; or
 - iv. Holds a staff appointment on July 1, 1976, with specialty privileges in a hospital accredited by the Joint Commission of Accreditation of Hospitals or by the American Osteopathic Association.
 - i. "Podiatrist". Podiatrist means a person licensed to practice podiatry under Chapter 7, Title 32, Arizona Revised Statutes.
 - j. "Respiratory therapist". Respiratory therapist means a person who is a graduate of an American Medical Association approved respiratory care education and training program and who has been registered by the American Registry of Inhalation Therapist, Inc., following successful completion of the American Registered Inhalation Therapist Examination.
 - k. "Speech therapist or audiologist". Speech therapist means a person who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association, or who has completed the equivalent educational requirements and work experience required for such a certificate, or who has completed the academic program or is in the process of accumulating the supervised work experience required for such a certificate.
2. Psychological services for VR are to be provided only by qualified psychologists, as described below:
 - a. A certified psychologist who holds a current certificate for the practice of psychology issued by the Arizona State Board of Psychologist Examiners and who has the necessary skills to provide diagnosis and treatment of mental or emotional disorders; or
 - b. A noncertified associate psychologist who has as a minimum a master's degree in psychology, clinical psychology, counseling psychology, or educational psychology from an approved psychology training program at an accredited college or university, and the necessary skills to provide diagnosis and treatment of mental or emotional disorders, and is professionally supervised by a certified psychologist and who assumes professional responsibility and accountability for the psychological services of his staff. The supervising psychologist shall review the referral information to assist in the selection of appropriate diagnostic or treatment methods, be available for case consultation during evaluation or treatment sessions, participate in data interpretation and report development and review and co-sign evaluation or treatment reports.
 3. Standards for providers of training or education:
 - a. Private business, vocational or technical schools. Those schools that are licensed in accordance with A.R.S. § 15-931 and provide printed curricula and fees.
 - b. Tutors. VR counselors shall use tutors, for fee, only when such individuals have demonstrated competence and/or training in the area of service being purchased.
 - c. OJT. On-the-job training shall be purchased in accordance with the instructions in R6-4-206(C)(8)-(14).
 - d. Orientation and mobility specialist. Bachelor's or master's degree in orientation and mobility. AAWB provisional or permanent orientation and mobility certification within six months of employment.
 - e. Rehabilitation teacher. One year of experience in rehabilitation teaching or related instruction of the handicapped or a master's degree in rehabilitation teaching, special education or related. AAWB provisional or permanent rehabilitation teaching certification within six months of employment. In the case of services to children, a special education certificate in

the area of visually handicapped and/or deaf/blind or a special education certificate and a minimum of one year's experience.

- f. Rehabilitation facilities. By 1980, all facilities utilized by VR shall be accredited, or in the process of applying for accreditation, by CARF, NAC, or other recognized accrediting bodies.

- 4. Interpreters for the deaf must be certifiable by the Registry of Interpreters for the Deaf whenever possible.

B. Service standards and service descriptions

1. Medical

- a. Medical consultation may be provided only by a person currently licensed by the state as "physician".
- b. The provider of restoration services shall:
 - i. Submit a report outlining the problem, what restoration services are necessary and time frames in which such will be accomplished.
 - ii. Submit a written report to justify any services that may be required beyond 90 days.
 - iii. Advise counselor of all extra procedures required but not included in the original authorization.
 - iv. Advise counselor of costs and all changes in costs.
 - v. Provide billings promptly.
- c. Ancillary services. All medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.
 - i. Physical therapy shall provide information regarding range of motion, strength, coordination and physical tolerance. It can also recommend whether an existing orthopedic condition is stable and make recommendations for further treatment. The knowledge gained can be expressed in functional terms which is directly related to the client's vocational planning. The therapy aspect is designed to assist the individual in reaching his maximum functional level through various treatment modalities such as hydrotherapy, electrotherapy and coordinated exercises.
 - ii. Occupational therapy shall involve a determination of the client's level of independent living skills relating to self-care activities, homemaking activities, and ability to utilize transportation. Additionally, evaluation of upper-extremity function and perceptual skills are included. The OT evaluation also determines the suitability of the client's home in terms of architectural features and determine the need for modifications, if appropriate, as well as the need for special equipment such as splints, upper-extremity prosthesis and assistive devices.
 - iii. Rehabilitation nursing shall provide screening to detect possible health problems, identifies possible accident-prone clients, detects poor hygiene, possible substance abuse, behavioral and attitudinal factors and need for additional medical evaluations. The evaluation identifies the vocational significance of these factors and also indicates the manner in which the presence of certain factors might affect the evaluative findings of other services of the facility. The therapeutic aspect of Rehabilitation Nursing is

expressed by its role of consultant to other members of the rehabilitation team.

- d. Speech therapy shall identify disorders of voice, articulation, language or fluency along with the vocational significance of various disorders. Treatment consists of individual and group therapy to correct the diagnosed disorder.
 - e. Audiological services shall be utilized to determine the existence of hearing difficulties and to develop a plan to manage the deficiencies. The evaluation determines the nature of the hearing loss and its vocational significance. The treatment program might include auditory training, lip reading and counseling regarding the use of a hearing aid.
 - f. Interpreter services shall involve the provision of an interpreter who is certifiable by the Registry of Interpreters for the Deaf to assist the deaf person in communication with hearing people. Interpreting services are necessary if the deaf individual is to have access to, and benefit from, those services and resources available to clients in the rehabilitation process. Specifically, the interpreter must be capable of interpreting speech for the deaf individual and reverse interpreting; i.e., manual communication into speech at the level and speed at which the deaf person communicates.
- 2. Psychological services**
- a. Psychological evaluation for the VR program requires the administration, scoring and interpretation of psychological tests which measure intelligence, personality, achievement, aptitudes, interests and other clinically significant psychological attributes of clients. The psychologist must provide reports of findings to VR counselors, including diagnosis of mental or emotional disorders, if present, and recommendations for appropriate counseling, treatment or training strategies which may render the individual more employable.
 - b. Consultation shall be related to the psychological aspects of individual cases so as to establish whether a psychological disability is adequately documented by the available evidence; to provide certification of severely disabled status; to assess all psychologically related needs of an individual in a VR program; to recommend appropriate restorative services. All case records reviewed will be annotated and reviews will be coordinated with medical consultants, where appropriate. Consultation can only be provided by a certified psychologist.
 - c. Mental restoration services. The provider of mental restoration services shall:
 - i. Submit a report outlining the problem, proposed services and therapy goals and time frames in which such will be accomplished.
 - ii. Submit regular progress reports to the VR counselor.
 - iii. Advise counselor of all changes in therapy goals or changes in time frames.
 - iv. Advise counselor of costs and all changes in costs.
 - v. Provide billings for services performed promptly.
- 3. Vocational evaluation shall be a comprehensive process that systematically utilizes real or simulated work as a means of determining an individual's present work ability and predicting his work potential. The process is based**

upon a review and consideration of all data relating to the client, including medical, psychological, social, vocational, cultural, education and economic as well as objective data obtained by assessment of the client. The process will include as appropriate for the client, paper and pencil tests, work samples, situational assessment on job stations and on the job tryout. The evaluation will generate a report to the referring VR or SRBVI counselor which will provide the counselor with an understanding of the client's capabilities and limitations as they relate to work, will provide a basis for vocational exploration and will enable the counselor to identify vocational goals which are suitable to the client's interests, aptitudes, and physical and mental capabilities.

4. Training services

a. Work adjustment services shall be provided by rehabilitation facilities or sheltered workshops who have the resources, knowledge and accountability to provide this service. Work adjustment is a treatment/training process utilizing individual and/or group work or work-related activities. The goal of work adjustment is to assist clients in understanding the meaning, value and demands of work; to modify or develop positive attitudes toward work; to develop appropriate personal characteristics and behavior; and to develop the functional capacities necessary to reach an optimum level of vocational development. The facility will:

- i. Have prior authorization to provide services from the VR counselor;
- ii. Notify counselor of any changes in goals or time frames;
- iii. Provide monthly progress reports including objective data relative to client movement towards the goals;
- iv. Provide billing promptly;

5. Pre-vocational adjustment shall be a work adjustment process especially designed to meet the needs of a specific target population; namely, physically or mentally disabled persons who have no known skills and who have never been employed. It is a process which is normally provided by a sheltered workshop and the goal is generally that of assisting the client to adjust to the workshop setting. Pre-vocational adjustment differs from work adjustment in that it focuses on habilitation rather than rehabilitation. Essentially, the same techniques will be utilized with modification as necessary to meet the special needs of the target group. The program must demonstrate objective client progress in development of behavior appropriate to a work setting and positive attitudes toward work. Facility responsibilities are the same as under work adjustment.

6. Personal adjustment

a. Personal and social adjustment as provided in a rehabilitation facility shall be a formalized training process designed to assist clients in resolving problems which may not be directly work related but which, nevertheless, must be resolved if the individual is to reach his optimum level vocationally or if he is to remain in employment over an extended period of time. Included are problems which, if not resolved, will eventually carry over into employment settings and result in marginal performance, excessive tardiness, absenteeism, or possibly termination. The program must demonstrate client progress in terms of greater independence and more

effective functioning in a work setting as well as in all areas of the client's life.

- b. Other personal adjustment services. Personal adjustment may also include services which provide skills or techniques for the specific purpose of enabling the individual to compensate for the loss of a member of the body or the loss of a sensory function. Included may be the following: training in the use of artificial limbs, aids or appliances; remedial training; literacy training; lip reading; braille; orientation and mobility training and rehabilitation teaching.
- c. Rehabilitation teaching. Rehabilitation teaching provides instruction and training in learning adaptive skills necessary because of visual problems and/or blindness. These skills include communications skills (such as braille, typing, handwriting); home management skills (such as food preparation and nutrition, adaptive sewing techniques, marketing and budgeting); personal management skills (such as clothing care and organization, laundering, identification and labeling, grooming and hygiene); adaptive recreational skills, adaptive home mechanics and use of tools; and basic orientation skills within the home to enable a person to be mobile in his home environment and the necessary case management.
- d. Orientation and mobility. Orientation and mobility provides instruction in cane training to blind and visually impaired persons in learning how to travel from one part of their environment to another in a safe, efficient, graceful and independent manner. These services may include orientation to the physical environment, instruction in independent travel techniques and/or lessons in the use of the low vision aids.
- e. Whether these services are provided by a facility or individuals, appropriate provider standards apply. The reporting responsibilities are the same as those stated under the paragraph dealing with work adjustment. Rehabilitation teaching, orientation and mobility services are described below.

7. OJT

- a. When an OJT establishes an employer/employee relationship, all applicable wage and hour laws shall apply.
- b. The employer must be willing to provide such a service under contract.
- c. Employer must be willing to observe all wage laws as they pertain; e.g., minimum wage, exceptions to minimum wage, etc.
- d. Must state precisely what training will be provided and how such will be accomplished.
- e. Employer must agree on time frames and must be willing to accept payment for training as agreed in the contract.
- f. Must report monthly on client's progress and submit billings on a monthly basis.

C. Authorizations for services purchased from vendors.

1. Contracts. Contracts for services may be negotiated between the counselor and vendor.
 - a. They should contain the following elements:
 - i. Identify the parties involved;
 - ii. The specific services being authorized;
 - iii. Beginning and ending dates;
 - iv. The manner in which services will be provided;

- v. Any required ancillary services; e.g., tools and supplies, registration fees, etc.
 - vi. The provider of the service;
 - vii. Goal of service being provided;
 - viii. Costs involved broken down in units of a month or less;
 - ix. Signatures of VR counselor and vendor.
 - b. Contracts must be written for all training services (including OJT's).
 - c. Contracts are to be written and signed before services are authorized.
 - d. If client or other sources are being used to pay for part of the training, this must be so stated on the contract.
2. A written authorization of services shall be made simultaneously with or prior to the purchase of services and such authorization will be retained. A VR counselor who is permitted to make an oral authorization in an emergency shall promptly document such an authorization in the client's case record and confirm it in writing to the provider of the service.
- D. Fee schedules. Fees shall be based on:**
1. The 1969 Relative Value Studies (unrevised) of the California Medical Association for medicine, surgery, radiology and pathology with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 2. ASA Relative Value Guide of 1974 with the conversion factors set by Rehabilitation Services Bureau and available through state or local VR offices.
 3. General medical examination to include a routine (chemical) urinalysis according to established fee schedule.
 4. Dental fee schedule is developed by Rehabilitation Services Bureau and available through state or local offices.
 5. Fee schedule for eye services is developed by Rehabilitation Services Bureau and available through state or local offices.
 6. Psychological evaluation fee structure. Three levels of psychological evaluation have been established and for each level there is a fee range in recognition of differences in usual and customary fees for similar services among psychologists in various areas of the state. The psychologist and the local VR counselor may wish to agree to a set fee, within the fee range, for each level of evaluation to avoid having to negotiate the fee for evaluating each client; even so, flexibility should be allowed so that the fee for a particular level of evaluation may be adjusted higher or lower, within the fee range, depending upon the complexity of a particular case. Fee ranges have been set by Rehabilitation Services Bureau and are available through the state office or local VR office. Levels of psychological evaluation and reporting. (If, in the psychologist's judgment, a lower level evaluation than requested will provide the requested information, the psychologist shall render the lower level evaluation without the VR counselor's approval and adjust the billing; however, if a higher level evaluation than requested will be necessary to adequately answer the referral questions, such evaluation must first be authorized by the VR counselor (a telephone call and a brief case discussion may accomplish this). If a VR counselor is in doubt as to which level of evaluation to obtain, advice may be sought from the VR supervisor and, where available, the VR psychological consultant.
- a. Minimal evaluation. Appropriate for individuals with a known history of mental or emotional impairment and prior psychological evaluation where an updating of the previous psychological information is desired (the psychologist's report will compare prior and current findings); also appropriate for individuals for whom only minimal information is needed.
 - b. Moderate evaluation. Appropriate for most individuals with no prior psychological evaluation or where prior evaluations are no longer applicable, and where more than a minimal evaluation is needed; the psychologist's report will provide a fairly detailed picture of the individual's assets and liabilities in response to the referral questions.
 - c. Comprehensive evaluation. Appropriate for individuals requiring a very extensive or specialized psychological evaluation to answer the referral questions, whether or not prior evaluations have been rendered; the psychologist's report will provide a very extensive description of the individual's assets and liabilities.
7. Mental restoration services. (Appointments missed without prior notification will be reimbursed at one-half the agreed-upon fee; however, no reimbursement will be provided for a missed appointment if, before such appointment, the psychologist and individual jointly reschedule the appointment.)
- a. Individual or family therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
 - b. Group therapy. The VR counselor and the psychologist will agree to a reasonable fee based on the psychologist's usual and customary fees, area of treatment specialization and length of treatment session.
- E. Purchase of equipment.** All equipment purchases shall be made in conformance with A.R.S. § 41-730 and rules, regulations and policies established and published under its authority.
- F. Inventory of equipment.** All equipment purchased shall be inventoried in accordance with policies established by state Department of Administration and the Department in conformance with A.R.S. § 41-729 and rules, regulations and policies established and published under this authority.
- G. Workmen's Compensation coverage for client's** shall be provided in conformance to A.R.S. § 23-901 et seq.
- Historical Note**
- Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-302 effective May 7, 1990 (Supp. 90-2).
- R6-4-403. Economic need and similar benefits**
- A. Economic need criteria**
1. Economic need. The purpose of economic need criteria is to determine whether the client will contribute, in whole or in part, to the cost of those services for which an economic need test is required or not.
 - a. An economic need test shall be applied for the following services:
 - i. Physical and mental restoration services;
 - ii. Maintenance;
 - iii. Transportation for other than diagnostic purposes;
 - iv. Services to members of a handicapped individual's family necessary to the adjustment or rehabilitation of the handicapped individual;

Department of Economic Security - Rehabilitation Services

- v. Telecommunications, sensory and other technological aids and devices;
 - vi. Occupational licenses, tools, equipment and initial stocks (including livestock) and supplies (including training books and materials);
 - vii. Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability;
 - viii. Nondiagnostic services provided to a client in extended evaluation are subject to economic need criteria.
 - b. No test of economic need shall be applied as a condition for furnishing the following vocational rehabilitation services:
 - i. Evaluation of rehabilitation potential; i.e., diagnostic and related services;
 - ii. Transportation for diagnostic purposes only;
 - iii. Counseling, guidance and referral;
 - iv. Interpreter services for the deaf;
 - v. Reader services, rehabilitation teaching services and orientation mobility services for the blind;
 - vi. Vocational and other training services (available similar benefits for higher education must be considered);
 - vii. Placement.
 - c. No test of economic need will be applied for those services provided with SSI/SSDI special funds (see Section R6-4-601 and R6-4-602).
2. General considerations
- a. Eligibility requirements for VR services will be applied without regard to the economic status of the applicant.
 - b. All available client resources shall be utilized when providing services conditioned on economic need including all liquid assets (assets readily converted to cash by financial institutions limited to checking accounts, savings accounts, bonds, and securities) before considering economic need based on income.
 - c. A client may be allowed to reserve liquid assets (as defined in (A)(2)(a)) up to \$2,500, but to reserve liquid assets, it must be documented that such a reserve is required for medical, health reasons or other disability related reasons; e.g., an individual without health insurance coverage but who is known to have or will have in the near future, substantial medical expenses. Counselor must exercise prudent judgment and must have prior supervisory approval before disallowing such assets.
 - d. All similar benefits and financial assistance programs must be explored and utilized (per instructions in Section R6-4-303(B)) including work study programs.
 - e. Economic need must be redetermined when a change in client's financial status occurs. The yearly annual review of progress will include a review of the client's financial status.
 - f. Economic need criteria will be applied to the family unit for a dependent minor. A minor is anyone under 18 years of age who is dependent on parents, legal guardian, other family member. When the minor and family are estranged, and family is not contributing substantially to his welfare, the minor may be considered as an independent adult.
 - g. Economic need criteria will also be applied to the family unit for those VR clients who are non-minors (adults) and who are currently being claimed as dependents for income tax purposes during the current tax year.
3. Income
- a. Income that must be counted is net wages after mandatory deductions such as income taxes, social security, taxes and mandatory retirement contributions.
 - b. Also counted as income are:
 - i. Financial assistance from family and friends including trust funds, alimony and inheritance;
 - ii. Welfare. ADC, GA, SSI;
 - iii. Compensation. VA disability, SSDI, Workmen's Compensation, U.I., retirement, insurance settlements, etc.;
 - iv. Interest, dividends and fees available or received;
 - v. Tribal or BIA assistance;
 - vi. Child support payments.
 - c. Any difference between similar benefits provided and actual cost of training or health maintenance must be considered as income, including but not limited to the following:
 - i. Hospital or health insurance;
 - ii. GI bill;
 - iii. VA rehabilitation;
 - iv. Educational grants;
 - v. Scholarships.
4. The value of investment or income property owned by the client is considered in determining contributions to be made by the client to the costs of his rehabilitation services. Such are considered as assets and must be used to contribute to the cost of those rehabilitation services which are dependent on economic need. These cases will be handled on an individual basis. The counselor shall discuss them with supervisor and, as necessary, the District Program Manager.
5. Method of applying the economic need determination to client's participation in the costs of the rehabilitation program:
- a. See R6-4-206(D) for instructions on how to apply economic need criteria to the provision of maintenance services;
 - b. In making an economic need determination, all liquid assets will be applied to cost of services before considering client's contributions based on monthly income;
 - c. If client has income over 80 percent of the Arizona median income figures provided by Department of Economic Security for administration of Title XX, he shall contribute that portion towards the cost of services which have an economic need criteria. Every attempt must be made to have vendor agree to time payments for one-time purchases when client is able to contribute to only part of their costs.
 - d. Exceptions to the above require prior approval by the supervisor.
- B. Similar benefits**
- 1. Similar benefits are those benefits provided under programs other than VR which, if available, are used to meet, in whole or in part, the cost of the same or similar VR service the Agency would otherwise provide.
 - 2. Use of similar benefits:
 - a. Services for which similar benefits must be considered and used, if available, are:
 - i. Physical and mental restoration services;
 - ii. Training, which includes:

- (1) Colleges, Community/Junior;
 - (2) Vocational training in private or public schools.
- iii. Maintenance;
- iv. Occupational licenses, tools, equipment and initial stocks and supplies;
- v. Transportation in connection with rehabilitation services (not for evaluation of rehabilitation potential);
- vi. Telecommunications, sensory and other technological aids and devices;
- vii. Interpreter and reader services;
- viii. Rehabilitation teaching services and orientation/mobility services for the blind.
- b. Similar benefits are not mandated for the following, but the counselor must make all efforts to acquire any similar benefits that may be available:
 - i. OJT's;
 - ii. Work adjustment;
 - iii. Remedial education;
 - iv. Evaluation of rehabilitation potential;
 - v. Counseling, guidance and referral;
 - vi. Books, tools and other training materials;
 - vii. Services to family members;
 - viii. Most employment services necessary to maintain handicapped client in suitable employment.
- c. Similar benefits are to be utilized in all cases to the extent they are adequate, timely and do not interfere with achieving the rehabilitation objective of the individual.
- d. An exception is made to the similar benefits review if such would cause significant delay in the provision of physical and mental restoration or maintenance services.
- e. Although services to family members and post-employment services are not listed as requiring a similar benefits' review, a similar benefits' review is required for all those services provided in these two service categories which are listed elsewhere as requiring such.
- 3. General considerations
 - a. An individual is eligible for similar benefits when he is legally qualified to receive such service.
 - b. The counselor must give full consideration of all available similar benefits.
 - c. The counselor must use maximum effort to secure similar benefit for a rehabilitation service. This effort must be documented in the IWRP. Counselor also must use contracted services or services under cooperative agreements if such are available to the client.
 - d. An individual eligible for similar benefits must utilize such insofar as they are adequate and do not interfere with achieving the rehabilitation objective of the individual.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-303 effective May 7, 1990 (Supp. 90-2).

R6-4-404. Administrative review and fair hearings

A. General considerations

- 1. Pursuant to federal regulations (CFR 1361-46) the VR Agency shall provide for applicants or clients of Vocational Rehabilitation who are dissatisfied with any action with regard to the furnishing or denial of services, a

chance to file a request for an administrative review and redetermination of that action. When the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing. All clients must be informed of this provision at the time they apply for services.

- 2. A dissatisfied client has a number of recourses which shall be explored before an administrative review or a hearing is necessary or recommended:
 - a. Clients shall first be encouraged to discuss problems with their counselor. It is a normal part of counseling that the client and counselor must from time-to-time confront issues not pleasant or agreeable to either. The counselor/client relationship must be preserved if at all possible, not to protect the agency but to preserve the necessary continuity and autonomy of that counseling relationship.
 - b. When it is clear to either counselor, client or supervisor that the client/counselor relationship has broken down or that disagreements are not solvable within the context of that relationship, several alternatives may be considered.
 - i. Assignment to different counselor if the problem is judged to be a conflict in personality or style of relating;
 - ii. Meeting of client with the counselor's immediate supervisor with or without counselor present to help clarify policy or programmatic issues. This may result in either the transferring of case to another counselor or renewed attempt to reestablish the original client/counselor relationship;
 - iii. For this type of informal review, it is often helpful for supervisor to request or bring in outside consultation to help clarify the issues or problems.
 - c. If, after all alternatives have been explored, and the client remains dissatisfied, he shall be reminded of the recourse he has for an administrative review and must be assisted in receiving the benefit of such a review. Courtesy, fairness and promptness must guide the counselor's or supervisor's actions. After it has been established that a review will be set up, the counselor or supervisor may not change a program of services or take any new action on the case regarding the issue(s) raised until such issues have been resolved, nor may an attempt be made to influence the direction of the review.
- 3. Administrative review
 - a. An administrative review is instituted at the request (written or verbal) of a client or applicant who is dissatisfied with any action regarding the furnishing or denial of services. Other informal avenues are to be explored before an administrative review is instituted. Requests for review, if in writing, shall be filed in client's case and copy forwarded to District VR Program Manager.
 - b. An administrative review shall be set up and held at the district level by District VR Program Manager or SBS/VR Manager. The individual with whom the complaint is filed is responsible for making necessary arrangements or to see that such arrangements are made. The hearing shall be conducted at a reasonable time, date and place and adequate preliminary written notice shall be given.
 - c. Persons to be involved are:

Department of Economic Security - Rehabilitation Services

- i. Client who is requesting the review;
 - ii. District VR Program Manager or SBSVR Manager as representatives of the Bureau Chief;
 - iii. VR Counselor involved;
 - iv. If client is deaf or mute, an interpreter will be present;
 - v. If the client does not have an adequate "grasp" of the English language, then an interpreter must be provided.
 - d. Persons who may also be involved:
 - i. Client may request to have a representative present;
 - ii. Other specialists at the discretion of District VR Program Manager.
 - e. Review procedures:
 - i. Minutes of the meeting shall be taken which summarize the issues raised, facts presented and discussion (a verbatim transcript is not required). If decisions were made during the review, they are also to be recorded. A copy of such minutes must be kept in permanent record files.
 - ii. The counselor is asked first to summarize the problem and to present his position;
 - iii. The client is asked if he has any questions and then to present his views on the problem and his position. In turn, the counselor may ask him questions.
 - iv. Discussion may follow with each individual given a chance to make closing comments. The client should be allowed to speak last.
 - f. Client shall be advised that the Administrative Review is not a legal hearing but an attempt to resolve conflicts by clarifying the issues, reviewing decisions and deciding whether to uphold those decisions based on state and federal laws, rules, regulations and policies as they apply to the particular circumstances of the case. The Agency must give timely and adequate notice to the client of decisions reached. Decision will be made within ten working days following the review.
 - g. Any decisions must be made with due regard to client's rights. The district VR Program Manager must be able and willing to state to the client the reasons for decisions reached.
 - h. The District VR Program Manager must advise RSB of a pending review. Technical assistance will be provided on request.
 - i. The results of the meeting shall be recorded as well as the rationale for any decisions made. A copy of this is to be forwarded to Rehabilitation Services Bureau and original filed with the District VR Program Manager; client's lawyer or representative shall also be furnished a copy on request. Records shall include the issues raised and discussed by both sides, evidence used and proposed findings, decisions or opinions. Client's case file will contain the facts and findings of the review.
 - j. All those participating in the review shall be advised that confidential information is involved and confidentiality must be observed. If non-VR individuals are present, the client should be asked to sign an authorization for release of personal information before proceeding. Client consent should never be presumed. Medical or psychological data obtained from third party may not be released without express authorization from that party. All other rules of confidentiality contained in federal regulations must be observed.
 - k. If the client remains dissatisfied with the results of an administrative review, the client may request a hearing.
 - l. The RSB Chief, as administrator of the single state agency, (per CFR 1361.46) acknowledges the Appeals Bureau under the Department's Deputy Director as his designee to represent him in hearings, reserving the right, however, under R6-4-304(C), reconsideration, to request a reconsideration of the hearing officer's decision by the Director.
- B. Fair hearings**
- 1. Filing of appeal
 - a. A request for a hearing shall be filed in writing with the Department or provider within fifteen calendar days after the mailing date of the decision letter.
 - b. Except as otherwise provided by Statute or by Department regulation, any appeal, application, request, notice, report, or other information or document submitted to the Department shall be considered received by and filed with the Department.
 - i. If transmitted via the United States Postal Service, or its successor, on the date it is mailed. The mailing date will be as follows:
 - (1) As shown by the postmark;
 - (2) In the absence of a postmark the postage meter mark of the envelope in which it is received;
 - (3) If not postmarked or postage meter marked, or if the mark is illegible, the date entered on the document as the date of completion.
 - ii. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
 - iii. The submission of any appeal, application, request, notice, report, or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay or other action of the United States Postal Service or its successor.
 - iv. Any notice, determination, decision, or other data mailed by the Department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the notice, determination, decision, or other date unless otherwise indicated by the facts. Computation of time shall be made in accordance with rule 6(a) of the rules of Civil Procedure, 16 A.R.S.
 - c. Benefits shall not be reduced or terminate prior to a hearing decision unless such is due to a subsequent change in household eligibility and/or another notice of adverse action is received and not timely appealed.
 - d. The local office or provider shall advise the client of any community legal services available and, when requested, shall assist in completing the hearing request.

2. Notice of hearing
 - a. Hearings will be held at the local office or any other place mutually agreed upon by the hearing officer and appellant. They shall be scheduled not less than twenty, nor more than thirty, days from the date of filing of the request for hearing. The appellant shall be given no less than 15 days notice of hearing except that the appellant may waive the notice period or request a delay.
 - b. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and of his rights to: present his case in person or through a representative; examine and copy any documents in the Department's possession which pertain to the issue prior to the hearing; obtain assistance from the local office in preparing his case; and of his opportunity to make inquiry at the local office about the availability of community legal resources which could provide representation at the hearing.
 - c. Appellant, in lieu of a personal appearance, may submit a written statement, under oath or affirmation, setting forth the facts of the case provided that the statement is submitted to the Department prior to or at the time of the hearing. All parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing, and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
 - d. The hearing officer may take such action for the proper disposition of an appeal as he deems necessary, and on his own motion, or at the request of any interested party upon a showing of good cause may continue the hearing to a future time or reopen a hearing before a decision is final to take additional evidence. If an interested party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date, or may make his decision upon the record, and such evidence as may be presented at the scheduled hearing. If within ten days of the scheduled hearing, appellant files a written application requesting reopening of the proceedings, and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice of the time, place, and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
3. Pre-hearing summary
 - a. A pre-hearing summary of the facts and grounds for the action taken shall be prepared and forwarded to the hearing officer no less than four days prior to the hearing.
 - b. The summary shall be provided to the appellant prior to the commencement of the hearing.
4. The hearing officer may subpoena any witnesses or documents requested by the Department or claimant to be present at the hearing. The request shall be in writing and shall state the name and address of the witness and the nature of his testimony. The nature of the witnesses testimony must be relevant to the issues of the hearing, otherwise the hearing officer may deny the request. The request for the issuance of a subpoena shall be made to give sufficient time, a minimum of three working days, prior to the hearing. A subpoena requiring the production of records and documents shall specifically describe them in detail and further set forth the name and address of the custodian thereof.
5. Review of file -- in the presence of a Department representative, the appellant and/or his authorized representative shall be permitted to review, obtain, or copy any Department record necessary for the proper presentation of the case.
6. Conduct of the hearing
 - a. Hearings shall be conducted in an orderly and dignified manner.
 - b. Hearings are opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence, and shall direct the order of proof. He shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses; the production of books, papers, correspondence, memoranda, and other records he deems necessary as evidence in connection with a hearing.
 - c. Evidence not related to the issue shall not be allowed to become a part of the record.
 - d. The hearing officer may, on his own motion, or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
 - e. The worker, supervisor, or other appropriate person may be designated Department representative for the hearing.
 - f. The appellant and Department representative may testify, present evidence, and cross-examine witnesses and present arguments.
 - g. The appellant may appear for himself or be represented by an attorney or any other person he designates.
 - h. A full and complete record shall be kept of all proceedings in connection with an appeal, and such records shall be open for inspection by any interested party. A transcript of the proceedings need not, however, be made unless it is required by the Director for further proceedings. When a transcript has been made for further proceedings, a copy shall be furnished without cost to each interested party.
7. Hearing decision
 - a. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing and Department rules governing the issues in dispute.
 - b. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons therefor. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and their attorneys of record not more than sixty days from the date of filing the request for appeal, unless the delay was caused by the appellant.
 - c. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
 - d. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the hearing officer specifically finds appropriate.
 - e. When a hearing decision upholds the proposed action of reducing, suspending, or terminating a grant, an overpayment is the result.

- f. All hearing decisions will be made accessible to the public, subject to meeting the provision for safeguarding confidential information relating to the client.
- g. Decision of the hearing officer will be the final decision of the Department unless a reconsideration is requested in accordance with Section I.
- h. Pursuant to A.R.S. § 36-563(C), Bureau of Mental Retardation decisions shall become final upon issuance of an order of the Director.
- 8. Withdrawal of appeal
 - a. An appeal may be withdrawn as follows:
 - i. Voluntary withdrawal. This may be accomplished by completing and signing the proper Department form, or by submitting a letter properly signed.
 - ii. Abandonment or involuntary withdrawal. This occurs when an appellant fails to appear at a scheduled hearing and within ten days thereof fails to request a rescheduled hearing, or fails to appear at a rescheduled hearing which he has requested. A hearing may not be considered abandoned if the claimant provides notification up to the time of the hearing that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing.

C. Reconsideration

- 1. An appellant, within ten calendar days after the decision was mailed or otherwise delivered to him, may request the Director to review the decision. (Exception, see paragraph R6-4-304(A)(3)(e)) The request shall be in writing and should set forth a statement of the grounds for review and may be filed personally or by mail.
- 2. After receipt of the request, the Director shall:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or
 - b. Decide the appeal on the record.
- 3. The Director shall promptly adopt his decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, shall be distributed to each interested party.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Amended effective June 9, 1978 (Supp. 78-3). Renumbered from R6-4-304 effective May 7, 1990 (Supp. 90-2).

R6-4-405. Confidentiality

A. Definitions

- 1. "Client information". Client information, written or otherwise, includes all medical, psychological, social, personal, financial, vocational and evaluative information which Vocational Rehabilitation acquires in the VR process.
- 2. "Informed consent of client". Informed consent is never presumed. A complete and signed authorization indicates "informed consent" in most cases. An authorization for release of information must include the following:
 - a. From whom the information is being requested;
 - b. The recipient of the information and his/her relationship to the client;
 - c. The type of information being requested;
 - d. The purpose for which information is being requested;
 - e. The duration for which client consent is being given;

- f. An assurance, signed by the individual requesting the information, that information received will be treated as confidential and will not be used contrary to the expressed intent of the request.
- 3. "Primary source information". All that information which Vocational Rehabilitation acquired through personal interaction with client and evaluations and reports done at counselor's request and written specifically for VR.
- 4. "Secondary source information". All that information which Vocational Rehabilitation acquired from other sources but not originally done for or intended for Vocational Rehabilitation use.
- 5. "Direct administration of a client's rehabilitation program". Sharing information under the following circumstances constitutes sharing information in the direct administration of a rehabilitation program:
 - a. To assist in the diagnostic process; i.e., sharing existing medical and psychological information with other specialists on an as needed basis;
 - b. To develop an appropriate program of services; i.e., sharing such information as necessary or appropriate with rehabilitation facilities or other vendors who may become providers of rehabilitation services;
 - c. To search out and obtain similar benefit resources; i.e., sharing information with any similar benefit resource but only for the express purpose of determining eligibility for such similar benefits;
 - d. To ensure success of an IWRP (Program of Services); i.e., sharing information on a "need to know" basis with service providers and within the constraints of B.(below) to ensure the success of a Program of Services;
 - e. To assist the client in finding and obtaining or retaining employment; i.e., sharing such information with the (prospective) employer as is necessary to obtain, retain, or ensure suitable placement;
 - f. To provide continuity of services; i.e., sharing client information with other state VR personnel or between states as necessary to ensure continuity and consistency in Agency dealings with the individual.
- 6. "Individualized Written Rehabilitation Program (IWRP)". That part of the individual client case file which contains the program of services and all basic understandings and assurances including client's consent to release of information in the administration of a rehabilitation program, and an assurance that otherwise client information will be held confidential.
- 7. "Client's representative". In the context of this Section, "representative" is an individual, so designated by the client, who is competent to handle personal client information and will do so responsibly for the benefit of the client.

- B. Sharing client information in direct administration of VR program. VR counselor may release client information of which we are either primary or secondary source (without separate written authorization) to other individuals or agencies in the direct administration of a client's rehabilitation program as long as only necessary information is shared and that in the counselor's judgment, recipient can and will handle information in confidential manner. Consent for this release is given by client when he signs an application for services (see IWRP).

C. Answering requests for client information from clients or other individuals:

- 1. Information of which VR is not the primary source is only released in direct administration of a client's rehabil-

- itation program. Requestors should be asked to contact the original source for secondary source information in possession of VR.
2. VR may release client information of which VR is primary source (other than under B. above) with client's informed written consent to only those other individuals or agencies who can give satisfactory assurance that information will be used only for the purpose for which it is provided, and that it will not be released to anyone else. In the adjudication of an individual's claim for Social Security or SSI benefits, Disability Certification Section has free access to primary source client information. VR counselors have free access to Disability Certification Section client information in the administration of a rehabilitation program.
 3. With informed written consent of the client, federal regulations allow release of information (besides the IWRP which does not require special consent) to the client or, as appropriate, his parent, guardian or other representative. This shall be done with extreme care and may only be authorized by the counselor. The counselor will not normally copy actual medical, psychological or social reports to give to client. Such may be provided to the client's representative with proper written authorizations from client. It is advised, however, that the counselor dictate letters explaining Vocational Rehabilitation involvements in a general way when such information is requested by the client. Copies of such letters are placed in client's case folder. Interpretations of technical psychological or medical data shall only be provided by the originator of the report.
 4. Client has a right to copies of his IWRP and shall be given such.
 5. With informed consent, information shall be made available for review (but not to be removed from client file or copies without subpoena) to such client, parent, guardian or other representative for purposes in connection with any proceeding or action for benefits or damage, including any proceeding or action against any public agency provided
 - a. That only such information as is relevant to the needs of the client shall be released, and
 - b. In the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian or other representative of the client by the state agency or to the client by a physician or by a licensed or certified psychologist. The psychologist or medical VR consultant or the examiner should be consulted to determine whether information may be harmful.
 6. Information shall be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State Vocational Rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.
 7. In any case, where client's informed consent is in doubt and/or when information may be damaging, such as during litigation with client as defendant, counselor is advised to not release personal client information even with a signed authorization for such release. In such an instance, the information may be subpoenaed.
 8. All client information released shall be stamped CONFIDENTIAL.
- D.** Vocational Rehabilitation requesting information on clients from others:
 1. Information being requested must have direct relevance to establishing client's eligibility and to the success of client's rehabilitation program. Counselor must be selective in his approach to information gathering.
 2. Request for information must be as specific as possible (fulfill the criteria as set in R6-4-305(A)(2)).
 - E.** Informing client about confidentiality
 1. The client shall be told at the beginning of his/her relationship with Vocational Rehabilitation that records will be held confidential but also that there are limits to that confidentiality; e.g., client files may be subpoenaed in whole or in part and contents used in court.
 2. The client shall also be told both at the beginning of relationship with counselor and any other time as necessary that:
 - a. The counselor must report any ongoing or future illegal activity to proper authorities, especially if it involves possible injury to other individuals or damage to property. That not doing so might make him/her legally accessories to the crime.
 - b. The counselor himself/herself may be subpoenaed and questioned in court in which case he must answer questions honestly and truthfully on the order of the judge.
 3. When counselor is aware that client may be or may become in violation of the law, the counselor must inform the client of this and the possible consequences.
 4. Counselor should know that counselor-client relationship is not protected by privileged communication laws in the same way that the doctor-patient, lawyer-client or clergyman-penitent relationship is.
 - F.** Client files shall not contain information which the client does not want known beyond the client-counselor relationship. Moreover, if the client wants to reveal the details of an illegal act or source of information, the counselor should interrupt the client and advise him that he is interested only in the effects of such activity, not the act itself.
 - G.** Client files must be kept in such a way that no unauthorized individual will have access to them. An unauthorized individual is anyone who is not directly connected with the administration of the rehabilitation program. All non-professional VR staff who have access to the client's records will be thoroughly briefed concerning the confidentiality standards to be observed.
 - H.** When a client/applicant is involved in litigation and has an attorney, the rehabilitation counselor shall inform the client's attorney of Agency involvement and plans for providing services.
 - I.** Subpoena of Vocational Rehabilitation counselor or client records
 1. Counselors receiving subpoenas must contact their supervisor and the Department's Legal Section immediately for assistance.
 2. To provide full protection of the counselor, any subsequent legal actions taken by the VR counselor shall be on instruction from Legal Section.
 3. Secondary source information such as medical or psychological data obtained from another agency shall not be

released without advice from Legal Section even under subpoena. The counselor should explain that this information should be secured from the original source. SSA information shall never be released, even under subpoena 42 U.S.C. 1306(a).

- J. All client information is the property of the Department and shall be used in conformance with the regulations and policies stated in this Section.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Renumbered from R6-4-305 effective May 7, 1990 (Supp. 90-2).

ARTICLE 5. RESERVED

ARTICLE 6. SIGHT CONSERVATION PROGRAM

R6-4-601. Definitions

For purposes of this Article, the following definitions shall apply:

1. "Department" means the Arizona Department of Economic Security.
2. "Dispensing optician" means a person who is licensed by the state of Arizona to dispense optical appliances pursuant to A.R.S. §§ 32-1681 through 32-1684.
3. "Eye examination" means a basic ophthalmological or optometric evaluation by an ophthalmologist or optometrist to determine or verify causation of visual loss and the level of visual function.
4. "Medical, optometric, and other eye care services" means a basic ophthalmological or optometric eye examination, interim treatment for visual conditions, and provision of eyeglasses, contact lenses, or other optical appliances for the correction of refractive errors.
5. "Ophthalmologist" means a physician licensed by the state of Arizona pursuant to A.R.S. §§ 32-1422 through 32-1426 or 32-1822 and certified by an approved specialty board in the field of ophthalmology.
6. "Optometrist" means a person licensed by the state of Arizona pursuant to A.R.S. §§ 32-1722 through 32-1725.
7. "Providers" means ophthalmologists, optometrists and dispensing opticians, who have contracted with the Sight Conservation Program to provide ophthalmologic or optometric eye examinations, or other eye care services to clients of the Program, or are employees of the Department in the Sight Conservation Program and provide direct eye care services to clients of the Program.
8. "Sight Conservation Program" or "Program" means a program administered by the Department pursuant to A.R.S. § 46-281 that provides medical, optometric and other eye care services, and which participates in public awareness programs and visual screening in an effort to prevent blindness.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section repealed, new Section adopted effective October 22, 1991 (Supp. 91-4).

R6-4-602. Eligibility for services

- A. To be eligible for medical, optometric and other eye care services, an applicant shall:
1. Be at least 18 years old.
 2. Either:
 - a. Be enrolled in the Arizona Health Care Cost Containment System (AHCCCS) pursuant to A.A.C. Title 9, Chapter 22, Article 3 as documented by AHCCCS; or

- b. Be receiving General Assistance, Aid to Families with Dependent Children, or Supplemental Security Income, as documented by the Department; and
3. Not have received medical, optometric or other eye care services from the Program within the past 24 months except under conditions established in A.A.C. R6-4-606(B).

- B. For applicants who apply in person, an eligibility determination shall be made at the time of application and, for those determined eligible, an appointment for services shall be scheduled. For those who apply other than in person and who are determined to be eligible, a notice of appointment for services shall be made either orally or in writing.
- C. Any determination of ineligibility shall be provided to the applicant in writing, directed to the address of record, and shall include the reason for the decision and notice of the right to appeal pursuant to A.A.C. R6-4-608.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Section repealed, new Section adopted effective October 22, 1991 (Supp. 91-4).

R6-4-603. Application for services

- A. Any person meeting the criteria for eligibility established in A.A.C. R6-4-602 may apply for the Sight Conservation Program by telephone, mail, or in person, by providing the following information:
1. Name, address, telephone, Social Security number, and date of birth;
 2. Date, location, and name of provider of last eye examination;
 3. Type of public assistance, both federal and state, currently being received.
- B. Upon receipt of an application, the Program shall verify the information provided and determine eligibility. If the application is taken orally, the Program shall document the information on the applicant's behalf and verify and determine eligibility.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-604. Eye examination; program authorization

- A. An applicant determined eligible by the Program shall receive an eye examination from an authorized provider.
- B. The Department shall transmit an eye examination authorization form with client-identifying information to a provider.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-605. Provider reports; program authorization for other eye care services

- A. The provider shall transmit a completed eye examination report to the Program for review and written authorization for provision of other eye care services, except as provided in subsection (B) of this rule.
- B. A provider when authorized by contract to provide eye examinations, and to fit and measure for eyeglasses pursuant to A.A.C. R6-4-606(C), shall provide these services prior to the transmittal of a completed eye examination report to the Program.
- C. Any denial by the Program of other eye care services shall be provided to the client in writing by the Program, directed to the client's address of record, and include both the reason for the decision and notice of the right to appeal pursuant to A.A.C. R6-4-608.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-606. Provision of services

- A. Once authorized, ophthalmological or optometric eye examinations and other eye care services shall be provided without charge either directly by the Program or by a contracted or authorized provider.
- B. No more than one eye examination and one pair of eyeglasses, contact lenses, or other optical appliances shall be provided to a client in any 24 consecutive months unless exceptional need exists as determined by the Program. In all circumstances in which services have been received with the 24-month period, the Program shall inquire into the existence of exceptional need. Exceptional need includes circumstances in which:
 - 1. An individual either develops a new visual impairment, or an existing disease entity deteriorates causing visual changes which impair client's current level of independent functioning.
 - 2. An individual's current level of independent functioning is jeopardized by loss of or damage to an optical appliance.
- C. As limited by subsection (B) of this rule, eyeglasses shall be provided when one of the following conditions exist:
 - 1. Present eyeglasses are in poor condition.
 - 2. An eye examination determines that distance or near visual acuity can be improved two lines on an eye chart in either eye regardless of the prescription.
 - 3. An eye examination determines that there is at least a one diopter change or an axis change of ten degrees or more.
 - 4. Lesser changes than those provided in paragraphs (2) and (3) will either reduce night blindness or will improve the ability to function independently as determined by the Program.
- D. As limited by subsection (B) of this rule, and in addition to the criteria provided in paragraphs (C)(2) and (3) of this rule, contact lenses may be provided when two or more of the following conditions exist:
 - 1. Present contact lenses are in poor condition.
 - 2. They provide better visual acuity than eyeglasses.
 - 3. Medically related factors dictate their use.
- E. As limited by subsection (B) of this rule, optical appliances other than eyeglasses and contact lenses shall be provided when prescribed or recommended by the examining provider; however, the Program shall limit responsibility for costs for each optical appliance to an amount determined by the Program each year.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-607. Public awareness; visual screening

- A. The Program shall participate in seminars, symposiums, health fairs, and conferences related to eye conditions and diseases and to the prevention of blindness.
- B. Visual screening shall be conducted by the Program to identify individuals with potential visual problems in an effort to prevent blindness.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

R6-4-608. Appeals

Any applicant or client adversely impacted by a decision of the Program or a failure of the Program to act with reasonable promptness shall have recourse to an administrative review and hearing pursuant to the procedures contained in A.A.C. R6-4-404, except that the decision of the hearing officer shall be final 20 days from the mail-

ing of the hearing officer's decision if no further action is taken by the Department.

Historical Note

Adopted effective October 22, 1991 (Supp. 91-4).

ARTICLE 7. REHABILITATION SERVICES TO THE BLIND AND VISUALLY IMPAIRED**R6-4-701. Organization and function of Services for the Blind Section (SBS)**

- A. There is hereby established a Section within the Rehabilitation Services Bureau known as the Services for the Blind Section (hereafter referred to as SBS).
- B. The chief of the Rehabilitation Services Bureau shall administer the state's programs of rehabilitation services to the blind and visually impaired.
- C. The Section Manager shall be responsible for the day-to-day operations of all services for the blind and visually impaired. He is responsible to the Chief of Rehabilitation Services Bureau on all rehabilitation matters.
- D. The manager and staff of Services for the Blind Section shall devote full time to the work of the Section. The Rehabilitation Services Bureau staff provides technical assistance and special program support services to the Section's vocational rehabilitation and other rehabilitation services programs to assist the Section in developing and maintaining effective services for the blind and visually impaired.
- E. The Services for the Blind Section shall include the following programs:
 - 1. Vocational Rehabilitation Services to the Blind and Visually Impaired
 - 2. Rehabilitation Instructional Services
 - 3. Business Enterprises
 - 4. Talking Book program
 - 5. Sight Conservation Services
 - 6. Arizona Industries for the Blind Production Services
 - 7. Arizona Industries for the Blind Rehabilitation Services program.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-702. Vocational Rehabilitation program

- A. Organization and function
 - 1. Vocational rehabilitation services for eligible blind and visually impaired individuals, including services rendered during extended evaluation for the determination of rehabilitation potential, as well as those services planned with, and provided to, persons found eligible, are the responsibility of the Vocational Rehabilitation program in the Section. The Supervisor of the Vocational Rehabilitation program assures that the vocational rehabilitation counselors obtain adequate medical, psychological and other relevant evaluation services for eligibility determination and plan development; utilize, as needed, other rehabilitation services such as rehabilitation teaching and orientation and mobility instruction; and coordinate these services with all other services necessary for the vocational rehabilitation of blind and visually impaired clients.
 - 2. This program, in cooperation with the Rehabilitation Services Bureau, plans and implements effective methods to ensure expeditious and equitable handling of referrals and applications by the vocational rehabilitation counselors.
- B. Authority and legal basis (see R6-4-103(A)).
- C. Provision of services

1. All rules under Articles 2 and 3 apply to the provision of vocational rehabilitation services.
2. When a question arises as to how best to serve the vocational rehabilitation needs of a blind or visually impaired individual who has other physical or mental disabilities, a conference shall be held between appropriate vocational rehabilitation staff of the Department to make a determination.
 - a. General medical, ophthalmological, and psychological consultation shall be available on a regular basis to all Vocational Rehabilitation counseling staff. Such consultation is available at least weekly in the Section's offices on a part-time basis.
 - b. All vocational rehabilitation applicants shall receive either an ophthalmological or optometric examination. The individual has full freedom of choice to select a properly licensed practitioner in either specialty to provide this service. Every medical examination must be performed by a properly licensed ophthalmologist.
 - c. All legally blind applicants for vocational rehabilitation services and those visually impaired applicants for whom it is deemed appropriate by the counselor shall receive a hearing evaluation.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Amended effective October 13, 1978 (Supp. 78-5).

R6-4-703. Rehabilitation Instructional Services program

- A. The Rehabilitation Instructional Services program provides specialized training designed to allow a blind or visually impaired person to function with maximum independence. Training is provided in developing those attitudes, techniques, procedures, plus the use of appropriate aids and appliances, necessary for his rehabilitation or habilitation. Instruction is provided in orientation and mobility, home management, personal management, and communication skills.
- B. Authority and legal basis. A.R.S. § 46-134.
- C. Individuals referred for regular instructional services shall be evaluated for receipt of such services on the following criteria:
 1. Appropriate timing and coordination with other rehabilitation services;
 2. Eligibility for VR services in accordance with VR rules and regulations (R6-4-202) or eligibility under Title XX guidelines;
 3. The individual's general health and physical condition as documented by medical reports;
 4. Degree of remaining vision and stability of eye condition as documented by eye examination;
 5. Emotional and psychological stability;
 6. Motivation;
 7. Demonstrated need for instruction;
 8. Availability of staff and resources.
- D. Eligibility for and provision of services
 1. No residence requirement, durational or other, will be imposed which excludes any individual.
 2. No upper or lower age limit will be established which in and of itself results in a finding of ineligibility for any blind or visually impaired person who otherwise meets the VR or Title XX eligibility requirements.
 3. The availability of rehabilitation instructional services is at all times contingent upon staff considerations, financial considerations and geographic consideration.
 4. The provision of instructional supplies is often an integral aspect in providing rehabilitation instructional services. When such supplies are determined to be necessary, and

the purchase has been approved by the supervisor of Rehabilitation Instructional Services or his designee, those supplies therein enumerated may be provided, as approved.

5. When the provision of equipment is determined to be necessary and services have been implemented, equipment may be loaned to the client without regard for economic need and with the understanding by the client that the item(s) or equipment is (are) being loaned to him for the purpose of attaining the objectives of the rehabilitation instructional program. When the client is a VR client, the VR counselor will be notified regarding the client's apparent need, and the counselor, if appropriate, shall authorize the purchase of equipment in accordance with the client's IWRP.
- E. Termination of services. Rehabilitation instructional services are terminated whenever:
 1. The objectives expressed within the plan have been met and no further services are indicated;
 2. When the client has reached his/her apparent highest level of attainment in the course.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-704. Repealed**Historical Note**

Adopted effective January 7, 1981 (Supp. 81-1).

Repealed effective May 7, 1990 (Supp. 90-2).

R6-4-705. Talking Book program

- A. Pursuant to Prat-Smoot Law (P.L. 89-522) CFR 44, Chapter 5, Part 501 and A.R.S. § 46-134, there shall be established a Talking Book program.
- B. The Talking Book program shall determine eligibility of, and issue talking book equipment and accessories to persons who then obtain library materials from the Arizona Regional Library for the Blind and Physically Handicapped and from other sources. All persons who cannot utilize normal printed materials because of visual or physical disabilities are eligible for this free service (see R6-4-705(C)).
- C. Persons must meet the following eligibility requirements in order to participate in the Talking Book program:
 1. Legally blind. Persons whose visual acuity is 20/200 or less in the better eye with correcting glasses, or whose diameter of visual field subtends an angle no greater than 20 degrees;
 2. Visually impaired. Persons who are not legally blind but are experiencing serious visual loss which interferes with the ability to read normal print;
 3. Physically handicapped. This category includes any person with a physical disability that prevents reading conventional print, holding a book or turning pages. A few examples are severe arthritis, cerebral palsy, multiple sclerosis, loss of hands, spasticity or paralysis. Persons who are experiencing learning difficulties such as dyslexia which stems from a physical condition resulting from organic brain dysfunction are also eligible.
- D. This program provides books, magazines and other selected printed materials which have been recorded under the direction of the Division for the Blind and Physically Handicapped, the Library of Congress, Washington, D.C., and made available for loan through state lending agencies to all residents who cannot read conventional printed materials because of visual or physical disabilities. Reading materials are provided by the Arizona Regional Library for the Blind and Physically Handicapped.

- E.** The following Talking Book equipment will be issued to all interested residents eligible because of visual or physical disability unless stock is depleted, in which event priorities will be determined by the Library of Congress.
1. Talking Book machines. Talking Book machines are specially designed phonographs which are made available by the Library of Congress to eligible persons through established Talking Book machine lending agencies. The Section of Rehabilitation for the Blind and Visually Impaired has been designated as the Talking Book machine lending agency for the state of Arizona, and, as such, is responsible for the initial requisition, receipt, accountability, storage, repair, and, when authorized, disposal of the machines.
 2. Cassette players. The cassette player contains a rechargeable battery pack, an AC power adapter, and an earphone stored within the machine. The cassette player is light in weight, easily handled and is adaptable to variation of reader requirements.
 3. Variable speed control units. The variable speed control unit is an electronic device which is adaptable to the Talking Book machine and cassette player and allows the reader to adjust the machine speed for understandable speech.
 4. Remote control units. The remote control unit is a transistorized accessory to the Talking Book machine which allows the immobilized reader to turn the machine on and off by touching a metal plate on the unit with any part of his body.
 5. Headphones. Headphones are furnished upon request and allow use of the machines in the presence of others without causing distractions.
- F.** Repair of Talking Book equipment assigned to the state of Arizona is performed voluntarily by the Phoenix and Tucson Chapters of the Telephone Pioneers of America. No repairs are to be made to machines without specific authorization of the Services for the Blind Section. Payment for repair of privately owned equipment used in playing Talking Book materials is not authorized by this agency.
- G.** All clients who meet eligibility requirements for other agency services are referred to Vocational Rehabilitation Section, Rehabilitation Instructional Services, Sight Conservation Section or Business Enterprises Section.
- H.** Not eligible for this service are those who cannot read because of illiteracy, economic deprivation, emotional illness or insanity or a condition not related to visual or physical disability.
- I.** Eligibility certification. Each application for Talking Book services must be certified by competent authority. Competent certifying authority is that individual who is competent to certify to the existence of at least one of the eligibility requirements as stated in R6-4-705(C) including physicians, ophthalmologists, optometrists, registered nurses, physical therapists, rehabilitation counselors and teachers and librarians.
- J.** Sub-agencies for the Talking Book program will be established by the Services for the Blind Section by entering into formal agreement with organizations which are willing to participate in, cooperate with and provide support to this program. Such organizations may include, but are not limited to, any

state, county or local health unit, welfare agencies, public libraries, community service organizations, nursing homes, associations of handicapped persons, retired groups or individuals desiring to participate in the program.

- K.** This program will actively solicit and train personnel of selected agencies interested in becoming lending sub-agencies in an effort to make Talking Book services available to all eligible residents.
- L.** Certification process. Application forms will be made available to lending sub-agencies for completion and forwarded to the Services for the Blind Section for review. Presumptive approval is given by the lending agency which permits the issuance of a Talking Book machine at the time of application for services provided that competent recommending authority (as defined in (H) above) is presented on behalf of the applicant. If the application form is not available, a statement by a competent authority will be accepted but must include name and address of applicant, medical diagnosis, reason why applicant cannot read normal print and identity of recommending authority. The Services for the Blind Section shall make final certification of eligibility on all applications for services, subject to normal appeal procedures, to the Division for the Blind and Physically Handicapped, Library of Congress, Washington, D.C.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

R6-4-706. Repealed

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3). Former Section R6-4-706 repealed, new Section R6-4-706 adopted effective June 17, 1985 (Supp. 85-3). Repealed effective October 22, 1991 (Supp. 91-4).

R6-4-707. Arizona Industries for the Blind

Pursuant to Wagner-O'Day Act, as amended, regulations published under its authority, and A.R.S. §§ 15-1181 to 1186, Arizona Industries for the Blind equips and operates a training center, including evaluation and work adjustment services, a work activities center, and a production workshop.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

ARTICLE 8. DISABILITY DETERMINATION SERVICES

R6-4-801. The Disability Determination Services program

The Disability Determination Services program, which is administered by the Bureau of Rehabilitation Services shall be responsible for planning, coordinating and carrying out the OASI Disability Determination program related to Title II of the Social Security Act and a Supplemental Security Income program related to Title XVI of the Social Security Act within terms of agreements between the Secretary of Health, Education and Welfare and the state of Arizona.

Historical Note

Adopted effective June 14, 1977 (Supp. 77-3).

TITLE 6. ECONOMIC SECURITY
CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES

(Authority: A.R.S. § 41-1954 et seq.)

Editor's Note: Sections and Appendices of this Chapter were adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005 (A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules (Supp. 98-2).

Editor's Note: Sections of this Chapter were adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Under Laws 1997, Chapter 300, § 74(B), the Department is required to institute the formal rulemaking process on these Sections on or before December 31, 1997. Because these rules are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

ARTICLE 1. REPEALED

Former Article 1 consisting of Sections R6-5-01 through R6-5-103 repealed effective August 3, 1978.

ARTICLE 2. REPEALED

Former Article 2 consisting of Sections R6-5-201 through R6-5-209 repealed effective August 8, 1978.

ARTICLE 3. REPEALED

Former Article 3 consisting of Sections R6-5-301 through R6-5-308 repealed effective July 6, 1976.

ARTICLE 4. REPEALED

Former Article 4 consisting of Sections R6-5-401 through R6-5-420 repealed effective August 3, 1978.

ARTICLE 5. REPEALED

Former Article 5 consisting of Sections R6-5-501 through R6-5-504 repealed effective July 6, 1976.

ARTICLE 6. REPEALED

Former Article 6 consisting of Sections R6-5-601 through R6-5-622 repealed effective July 6, 1977.

ARTICLE 7. REPEALED

Former Article 7 consisting of Sections R6-5-701 through R6-5-716 repealed effective August 3, 1978.

ARTICLE 8. REPEALED

Former Article 8 consisting of Sections R6-5-801 through R6-5-808 repealed effective September 16, 1976.

ARTICLE 9. REPEALED

Former Article 9 consisting of Sections R6-5-901 through R6-5-904 repealed effective August 3, 1978.

ARTICLE 10. REPEALED

Former Article 10 consisting of Sections R6-5-1001 through R6-5-1003 repealed effective August 3, 1978.

ARTICLE 11. REPEALED

Former Article 11 consisting of Sections R6-5-1101 through R6-5-1109 repealed effective August 11, 1976.

ARTICLE 12. REPEALED

Former Article 12 consisting of Sections R6-5-1201 through R6-5-1206 repealed effective May 17, 1976.

ARTICLE 13. REPEALED

Former Article 13 consisting of Sections R6-5-1301 through R6-5-1309 repealed effective November 23, 1976.

ARTICLE 14. REPEALED

Former Article 14 consisting of Sections R6-5-1401 through R6-5-1413 repealed effective May 24, 1976.

ARTICLE 15. REPEALED

Former Article 15 consisting of Sections R6-5-1501 through R6-5-1504 repealed effective August 11, 1976.

ARTICLE 16. RESERVED

ARTICLE 17. REPEALED

Former Article 17 consisting of Sections R6-5-1701 through R6-5-1704 repealed effective August 11, 1976.

ARTICLE 18. REPEALED

Former Article 18 consisting of Sections R6-5-1801 through R6-5-1804 repealed effective August 11, 1976.

ARTICLE 19. REPEALED

Former Article 19 consisting of Sections R6-5-1901 through R6-5-1906 repealed effective July 6, 1976.

ARTICLE 20. REPEALED

Former Article 20 consisting of Sections R6-5-2001 through R6-5-2006 repealed effective December 17, 1993.

ARTICLE 21. REPEALED

Former Article 21 consisting of Sections R6-5-2101 through R6-5-2110 repealed effective November 8, 1982.

ARTICLE 22. REPEALED

Former Article 22 consisting of Sections R6-5-2202 through R6-5-2209 repealed effective November 8, 1982.

ARTICLE 23. REPEALED

Article 23, consisting of Sections R6-5-2301 through R6-5-2310, repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

ARTICLE 24. APPEALS AND HEARINGS

Article 24 consisting of Sections R6-5-2401 through R6-5-2405 adopted effective March 1, 1978.

Former Article 24 consisting of Sections R6-5-2401 through R6-5-2404 repealed effective March 1, 1978.

Section

- R6-5-2401. Objective
- R6-5-2402. Authority
- R6-5-2403. Definitions
- R6-5-2404. Basis for a hearing
- R6-5-2405. Hearing process

ARTICLE 25. REPEALED

Former Article 25, consisting of Sections R6-5-2501 through R6-5-2503, repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 26. REPEALED

Former Article 26, consisting of Sections R6-5-2601 through R6-5-2607, repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 27. REPEALED

Former Article 27, consisting of Sections R6-5-2701 through R6-5-2707, repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 28. REPEALED

Former Article 28, consisting of Sections R6-5-2801 through R6-5-2804, repealed effective November 8, 1982.

ARTICLE 29. REPEALED

Article 29, consisting of Sections R6-5-2901 through R6-5-2912, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 30. REPEALED

Former Article 30, consisting of Sections R6-5-3001 through R6-5-3007, repealed effective August 29, 1984.

ARTICLE 31. REPEALED

Former Article 31, consisting of Sections R6-5-3101 through R6-5-3110, repealed effective November 8, 1982.

ARTICLE 32. REPEALED

Article 32, consisting of Sections R6-5-3201 through R6-5-3211, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 33. RESERVED**ARTICLE 34. RESERVED****ARTICLE 35. RESERVED****ARTICLE 36. RESERVED****ARTICLE 37. RESERVED****ARTICLE 38. RESERVED****ARTICLE 39. RESERVED****ARTICLE 40. RESERVED****ARTICLE 41. RESERVED****ARTICLE 42. RESERVED****ARTICLE 43. RESERVED****ARTICLE 44. RESERVED****ARTICLE 45. RESERVED****ARTICLE 46. RESERVED****ARTICLE 47. RESERVED****ARTICLE 48. RESERVED****ARTICLE 49. CHILD CARE ASSISTANCE**

Article 49, consisting of Sections R6-5-4901 through R6-5-4922, and Appendix A, adopted effective July 31, 1997 (Supp. 97-

3).

Section

- R6-5-4901. Definitions
- R6-5-4902. Repealed
- R6-5-4903. Redetermination of Eligibility
- R6-5-4904. Access to Child Care Assistance
- R6-5-4905. Initial Eligibility Interview
- R6-5-4906. Verification of Eligibility Information
- R6-5-4907. Withdrawal of an Application
- R6-5-4908. Child Care Assistance Approvals and Denials
- R6-5-4909. 12-Month Review
- R6-5-4910. Reinstatement of Assistance
- R6-5-4911. General Eligibility Criteria
- R6-5-4912. Eligible Activity or Need
- R6-5-4913. Applicants and Recipients as Child Care Providers
- R6-5-4914. Income Eligibility Criteria
- R6-5-4915. Fee Level and Copayment Assignment
- R6-5-4916. Special Eligibility Criteria
- R6-5-4917. Authorization of Child Care Assistance
- R6-5-4918. Denial or Termination of Child Care Assistance
- R6-5-4919. Notification Requirements
- R6-5-4920. Overpayments
- R6-5-4921. Appeals
- R6-5-4922. Termination and Phase-out of Ineligible Current Clients
- R6-5-4923. Maximum Reimbursement Rates For Child Care
- Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule
- Appendix B. Maximum Reimbursement Rates For Child Care

ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM

New Article 50, consisting of Sections R6-5-5001 through R6-5-5010, adopted effective November 19, 1996 (Supp. 96-4).

Former Article 50, consisting of Sections R6-5-5001 through R6-5-5007, repealed effective November 8, 1982 (Supp. 82-6).

Section

- R6-5-5001. Definitions
- R6-5-5002. Provider Participation Requirements
- R6-5-5003. Notification of Changes
- R6-5-5004. Referrals Not Guaranteed
- R6-5-5005. Referral Process
- R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements
- R6-5-5007. Provider Listing Status
- R6-5-5008. Provider Exclusion or Removal Process
- R6-5-5009. Administrative Review Process
- R6-5-5010. Administrative Appeal Process

ARTICLE 51. CHILD DAY CARE SERVICES

Article 51, consisting of Sections R6-5-5101 through R6-5-5107, adopted effective June 17, 1985.

Former Article 51, consisting of Sections R6-5-5101 through R6-5-5104, repealed effective June 17, 1985.

Section

- R6-5-5101. Definitions
- R6-5-5102. Client rights
- R6-5-5103. Client responsibilities
- R6-5-5104. Eligibility for services
- R6-5-5105. Day care providers
- R6-5-5106. Exclusions for programmatic eligibility
- R6-5-5107. Criteria for denying or closing services

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

Article 52, consisting of Sections R6-5-5201 through R6-5-5211, repealed effective May 11, 1994 (Supp. 94-2).

Article 52, consisting of Sections R6-5-5201 through R6-5-5227, adopted effective May 11, 1994 (Supp. 94-2).

Section

R6-5-5201.	Definitions
R6-5-5202.	Initial Certification: Provider
R6-5-5203.	Initial Certification: The Home Facility
R6-5-5204.	Initial Certification: Department Responsibilities; Denial
R6-5-5205.	Certificates: Issuance; Nontransferability
R6-5-5206.	Maintenance of Certification: General Requirements; Training
R6-5-5207.	Recertification Requirements
R6-5-5208.	Program and Equipment
R6-5-5209.	Safety; Supervision
R6-5-5210.	Sanitation
R6-5-5211.	Discipline; Guidance
R6-5-5212.	Evening and Nighttime Care
R6-5-5213.	Children Under Two Years of Age
R6-5-5214.	Children with Special Needs
R6-5-5215.	Transportation
R6-5-5216.	Meals and Nutrition
R6-5-5217.	Health Care; Medications
R6-5-5218.	Recordkeeping; Unusual Incidents; Confidentiality
R6-5-5219.	Provider/Child Ratios
R6-5-5220.	Change Reporting Requirements
R6-5-5221.	Use of a Backup Provider
R6-5-5222.	Claims for Payment
R6-5-5223.	Complaints; Investigations
R6-5-5224.	Probation
R6-5-5225.	Suspension
R6-5-5226.	Revocation of Certificate
R6-5-5227.	Appeals

ARTICLE 53. REPEALED

Former Article 53 consisting of Sections R6-5-5301 through R6-5-5305 repealed effective April 9, 1981.

ARTICLE 54. REPEALED

Former Article 54 consisting of Sections R6-5-5401 through R6-5-5411 repealed effective November 8, 1982.

ARTICLE 55. CHILD PROTECTIVE SERVICES

Article 55, consisting of Sections R6-5-5501 through R6-5-5504, adopted effective December 8, 1983.

Former Article 55, consisting of Sections R6-5-5501 through R6-5-5526, repealed effective December 8, 1983.

Section

R6-5-5501.	Definitions
R6-5-5502.	Receipt and Screening of Information; Child Abuse Hotline
R6-5-5503.	Non-Reports
R6-5-5504.	Preliminary Screening Classifications
R6-5-5505.	Priority Codes; Initial Response Time
R6-5-5506.	Methods for Investigation of Reports
R6-5-5507.	Alternative Investigation
R6-5-5508.	Conduct of a Field Investigation
R6-5-5509.	Establishing Probable Cause of Child Maltreatment
R6-5-5510.	Investigation Findings; Required Documentation
R6-5-5511.	Ongoing Services; Imminent Harm Not Identified; Case Closure

R6-5-5512.	Procedures for Substantiated Reports; Removal; Imminent Harm
R6-5-5513.	Alternatives to Involuntary Removal; Voluntary Placement; Removal
R6-5-5514.	Removal Review
R6-5-5515.	Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency
R6-5-5516.	Procedures for Investigations of Out-of-Home Care Providers
R6-5-5517.	Repealed
R6-5-5518.	Repealed
R6-5-5519.	Repealed
R6-5-5520.	Repealed
R6-5-5521.	Repealed
R6-5-5522.	Repealed
R6-5-5523.	Repealed
R6-5-5524.	Repealed
R6-5-5525.	Repealed
R6-5-5526.	Repealed
Appendix 1	Pre-screening Cue Questions
Appendix 2	Cue Questions

ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS

Article 56, consisting of new Sections R6-5601 through R6-5-5612, adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

Article 56, consisting of Sections R6-5-5601 through R6-5-5624, recodified to A.A.C. R6-8-201 through R6-8-224 effective February 13, 1996 (Supp. 96-1).

Section

R6-5-5601.	Definitions
R6-5-5602.	Scope and Application
R6-5-5603.	Procedures for Requesting Information
R6-5-5604.	Procedures for Processing a Request for Information
R6-5-5605.	Release of Information in Situations Requiring Immediate Action or Service to a Child
R6-5-5606.	Release of Report and Investigation Findings
R6-5-5607.	Release of Summary Information to a Person Who Reported Suspected Child Abuse and Neglect
R6-5-5608.	Release of Information to a Research or Evaluation Project
R6-5-5609.	Release of Information to a Legislative Committee
R6-5-5610.	Release of Information to a State Official
R6-5-5611.	Release of Information to an Individual Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect or Abandonment Who Has Died
R6-5-5612.	Fees

ARTICLE 57. REPEALED

Article 57, consisting of Sections R6-5-5701 thru R6-5-5709, repealed effective April 9, 1998 (Supp. 98-2).

Article 57, consisting of Sections R6-5-5701 through R6-5-5709, adopted effective November 5, 1984.

Former Article 57, consisting of Sections R6-5-5701 through R6-5-5711, repealed effective November 5, 1984.

ARTICLE 58. FAMILY FOSTER PARENT LICENSING REQUIREMENTS

Article 58, consisting of Sections R6-5-5801 through R6-5-5850, adopted effective January 10, 1997 (Supp. 97-1).

Former Article 58, consisting of Sections R6-5-5801 through R6-5-5807, repealed effective January 10, 1997 (Supp. 97-1).

Article 58, consisting of Sections R6-5-5801 through R6-5-5807, adopted effective April 1, 1981.

Former Article 58, consisting of Sections R6-5-5801 through R6-5-5811, repealed effective April 1, 1981.

Section

- R6-5-5801. Definitions
- R6-5-5802. Application for Initial License
- R6-5-5803. Investigation of the Applicant
- R6-5-5804. Inspection of the Foster Home; DHS Inspection Report
- R6-5-5805. Investigative Report and Licensing Recommendation
- R6-5-5806. Complete Application Package: Contents
- R6-5-5807. CPSCR Check; Additional Investigation By Licensing Authority
- R6-5-5808. License: Form; Issuance; Denial; Term; Termination
- R6-5-5809. Provisional License
- R6-5-5810. Application for License Renewal
- R6-5-5811. Renewal Investigation; Licensing Report and Recommendation
- R6-5-5812. Renewal License
- R6-5-5813. Licensing Time Frames
- R6-5-5814. Amended License; Change in Household Members
- R6-5-5815. Monitoring the Foster Home and Family
- R6-5-5816. Investigation of Complaints about a Foster Home
- R6-5-5817. Licensing Authority Action on Complaints
- R6-5-5818. Corrective Action
- R6-5-5819. License Denial, Suspension, and Revocation
- R6-5-5820. Adverse Action; Notice; Effective Date
- R6-5-5821. Appeals
- R6-5-5822. Alternative Methods of Compliance
- R6-5-5823. Foster Parent: General Qualifications
- R6-5-5824. Foster Parent: Personal Characteristics
- R6-5-5825. Training and Development
- R6-5-5826. Compliance with Licensing Limitations; Adult-child Ratios
- R6-5-5827. Placement Agreement
- R6-5-5828. Participation in Case Planning
- R6-5-5829. Daily Care and Treatment of a Foster Child; Foster Child Rights
- R6-5-5830. Medical and Dental Care
- R6-5-5831. Child Care
- R6-5-5832. Transportation
- R6-5-5833. Behavior Management; Discipline; Prohibitions
- R6-5-5834. Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events
- R6-5-5835. Notification of Events or Changes Involving the Foster Family or the Foster Home
- R6-5-5836. Maintenance of a Foster Child's Records
- R6-5-5837. Confidentiality
- R6-5-5838. Foster Home: General Requirements
- R6-5-5839. Foster Home: General Safety Measures
- R6-5-5840. Exterior Environment; Play Area; Play Equipment
- R6-5-5841. Swimming Pools and Pool Safety
- R6-5-5842. Bedrooms; Bedding; Sleeping Arrangements
- R6-5-5843. Bathrooms
- R6-5-5844. Kitchen
- R6-5-5845. Fire Safety and Prevention
- R6-5-5846. Emergencies, Exits, and Evacuation
- R6-5-5847. Special Provisions for a Receiving Foster Home
- R6-5-5848. Special Provisions for a Respite Foster Home
- R6-5-5849. Special Provisions for an In-home Respite Foster Parent

R6-5-5850. Special Provisions for a Professional Foster Home

ARTICLE 59. GROUP FOSTER HOME LICENSING STANDARDS

Section

- R6-5-5901. Objectives
- R6-5-5902. Authority
- R6-5-5903. Definitions
- R6-5-5904. Responsibilities of the Department
- R6-5-5905. Operating without a license
- R6-5-5906. Licensing requirements
- R6-5-5907. Denial, Suspension or Revocation of a License
- R6-5-5908. Re-licensing requirements
- R6-5-5909. Standards for licensing and operating group foster homes
- R6-5-5910. Confidentiality
- R6-5-5911. Civil rights
- R6-5-5912. Fair Labor Standards Act

ARTICLE 60. COMPREHENSIVE MEDICAL/DENTAL PROGRAM FOR FOSTER CHILDREN

Section

- R6-5-6001. Objective
- R6-5-6002. Authority
- R6-5-6003. Definitions
- R6-5-6004. Eligibility
- R6-5-6005. Definition of covered services
- R6-5-6006. Exceptions, limitations and exclusions
- R6-5-6007. Prior authorization
- R6-5-6008. Coordination of benefits
- R6-5-6009. Identification card
- R6-5-6010. Payment and review of claims
- R6-5-6011. Abuse and misuse of the Program
- R6-5-6012. Consent for treatment
- R6-5-6013. Administration of the Program
- R6-5-6014. Case management
- R6-5-6015. Fee schedule
- Exhibit 1. Repealed

ARTICLE 61. REPEALED

Article 61, consisting of Sections R6-5-6101 through R6-5-6104, repealed effective June 5, 1997 (Supp. 97-2).

Article 61, consisting of Sections R6-5-6101 through R6-5-6104, adopted effective August 29, 1984.

Former Article 61, consisting of Sections R6-5-6101 through R6-5-6108, repealed effective August 29, 1984.

ARTICLE 62. REPEALED

Former Article 62 consisting of Sections R6-5-6201 through R6-5-6209 repealed effective August 29, 1984.

ARTICLE 63. REPEALED

Former Article 63 consisting of Sections R6-5-6301 through R6-5-6304 repealed effective November 8, 1982.

ARTICLE 64. REPEALED

Former Article 64 consisting of Sections R6-5-6401 through R6-5-6408 repealed effective February 1, 1979.

ARTICLE 65. DEPARTMENT ADOPTION FUNCTIONS AND PROCEDURES FOR PROVIDING ADOPTION SERVICES

Article 65, consisting of Sections R6-5-6501 through R6-5-6511, adopted effective January 2, 1996 (Supp. 96-1).

Department of Economic Security - Social Services

Article 65, consisting of Sections R6-5-6501 through R6-5-6509, repealed effective January 2, 1996 (Supp. 96-1).

Section

- R6-5-6501. Definitions
- R6-5-6502. Central Adoption Registry; Information Maintained; Confidentiality
- R6-5-6503. Department Review of Adoption Expenses
- R6-5-6503.01. Department Review of Adoption Expenses Under the ICPC
- R6-5-6504. Department Adoption Services
- R6-5-6505. Department Procedures for Processing Certification Applications
- R6-5-6506. Department Priorities for Receipt of Services
- R6-5-6507. Department Recruitment Efforts
- R6-5-6508. Referrals to Other Sources
- R6-5-6509. Fees
- R6-5-6510. International Adoptions
- R6-5-6511. Termination of Services

ARTICLE 66. ADOPTION SERVICES

Article 66, consisting of Sections R6-5-6601 through R6-5-6624, adopted effective January 2, 1996 (Supp. 96-1).

Article 66, consisting of Sections R6-5-6601 through R6-5-6610, repealed effective January 2, 1996 (Supp. 96-1).

Section

- R6-5-6601. Definitions
- R6-5-6602. Recruitment
- R6-5-6603. Orientation: Persons Interested in Adoption
- R6-5-6604. Application for Certification; Fees; Waiver
- R6-5-6605. Certification Investigation
- R6-5-6606. Certification Report and Recommendation
- R6-5-6607. Renewal of Certification
- R6-5-6608. Communications with Certified Parents Awaiting Placement
- R6-5-6609. Prohibitions Regarding Birth Parents
- R6-5-6610. Information About Birth Parents
- R6-5-6611. Pre-consent Conferences with Birth Parents
- R6-5-6612. Consent to Adopt; Unknown Birth Parent
- R6-5-6613. Adoptable Child: Assessment and Service Plan
- R6-5-6614. Placement Determination
- R6-5-6615. Provision of Information on Placed Child
- R6-5-6616. Transportation
- R6-5-6617. Placement Investigation and Report
- R6-5-6618. Placement Services
- R6-5-6619. Post-placement Supervision: Non-foster Parent Placements
- R6-5-6620. Post-placement Supervision: Foster Parent Placements
- R6-5-6621. Protracted Placements
- R6-5-6622. Finalizing the Placement
- R6-5-6623. Placement Disruption
- R6-5-6624. Confidentiality

ARTICLE 67. ADOPTION SUBSIDY

Section

- R6-5-6701. Objective
- R6-5-6702. Authority
- R6-5-6703. Description of services
- R6-5-6704. Definitions
- R6-5-6705. Policy
- R6-5-6706. Types of subsidy
- R6-5-6707. Certification of the child for adoption subsidy
- R6-5-6708. Adoptive parents application for subsidy
- R6-5-6709. Department responsibility

- R6-5-6710. Revisions
- R6-5-6711. Case management
- R6-5-6712. Repealed
- R6-5-6713. Renumbered

ARTICLE 68. REPEALED

Former Article 68, consisting of Sections R6-5-6801 through R6-5-6808, repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 69. CHILD PLACING AGENCY LICENSING STANDARDS

Section

- R6-5-6901. Objectives
- R6-5-6902. Authority
- R6-5-6903. Definitions
- R6-5-6904. Licensing requirements
- R6-5-6905. Denial, suspension, or revocation of a license
- R6-5-6906. License renewal requirements
- R6-5-6907. Standards for licensing and operating a Child Placing Agency
- R6-5-6908. Confidentiality
- R6-5-6909. Civil rights
- R6-5-6910. Fair Labor Standards Act

ARTICLE 70. ADOPTION AGENCY LICENSING

Article 70, consisting of Sections R6-5-7001 through R6-5-7040, adopted effective January 2, 1996 (Supp. 96-1).

Article 70, consisting of Sections R6-5-7001 through R6-5-7040, repealed effective January 2, 1996 (Supp. 96-1).

Article 70 consisting of Sections R6-5-7001 through R6-5-7040 adopted as permanent rules effective January 23, 1987.

Article 70 consisting of Sections R6-5-7001 through R6-5-7040 adopted as an emergency effective October 17, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.

Article 70 consisting of Sections R6-5-7001 through R6-5-7006 adopted as an emergency effective January 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency renewed effective April 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.

Section

- R6-5-7001. Definitions
- R6-5-7002. Who Shall Be Licensed
- R6-5-7003. Licensing: Initial Application; Fee
- R6-5-7004. Licensing: Out-of-state Agencies
- R6-5-7005. Department Procedures for Processing License Applications
- R6-5-7006. License: Issuance; Denial
- R6-5-7007. License: Term; Nontransferability
- R6-5-7008. Application for License Renewal; Fee
- R6-5-7009. Renewal License: Issuance
- R6-5-7010. Amended License
- R6-5-7011. Governing Body
- R6-5-7012. Agency Administrator
- R6-5-7013. Social Services Director
- R6-5-7014. Social Workers
- R6-5-7015. Agency Employees: Hiring; References; Fingerprinting
- R6-5-7016. Agency Volunteers; Interns
- R6-5-7017. Personnel Records
- R6-5-7018. Training Requirements
- R6-5-7019. Contracted Services
- R6-5-7020. Staffing Ratios
- R6-5-7021. Operations Manual

R6-5-7022. Agency Operations Budget; Financial Records
 R6-5-7023. Annual Financial Audit
 R6-5-7024. Insurance Coverage
 R6-5-7025. Protecting Confidentiality of Adoption Records
 R6-5-7026. Recordkeeping Requirements: Adoptive Children
 R6-5-7027. Recordkeeping Requirements: Adoptive Parents
 R6-5-7028. Reporting Requirements: Abuse; Unauthorized Practice; Changes; Registry Information
 R6-5-7029. Birth Parent: Service Agreement; Prohibitions
 R6-5-7030. Adoption Fees; Reasonableness
 R6-5-7031. Adoption Fee Agreement
 R6-5-7032. AHCCCS Reimbursement; Disclosure of 3rd-party Coverage
 R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit
 R6-5-7034. Complaints; Investigations
 R6-5-7035. Noncompliance Status
 R6-5-7036. Suspension
 R6-5-7037. Revocation
 R6-5-7038. Adverse Action: Procedures
 R6-5-7039. Appeals
 R6-5-7040. International Adoptions

ARTICLE 71. REPEALED

Article 71, consisting of Sections R6-5-7101 through R6-5-7104, repealed effective April 9, 1998 (Supp. 98-2).

Article 71, consisting of Sections R6-5-7101 through R6-5-7104, adopted as permanent rules effective July 11, 1986.

Former Article 71, consisting of Sections R6-5-7101 through R6-5-7104, adopted as an emergency effective January 1, 1986 and renewed as an emergency effective April 1, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency effective April 1, 1986 expired.

Former Article 71, consisting of Sections R6-5-7101 through R6-5-7104, repealed effective November 8, 1982.

ARTICLE 72. REPEALED

Former Article 72 consisting of Sections R6-5-7201 through R6-5-7214 repealed effective July 12, 1984.

ARTICLE 73. REPEALED & RENUMBERED

Article 73, consisting of Sections R6-5-7301 through R6-5-7306 and R6-5-7309, repealed; Sections R6-5-7307 and R6-5-7308 renumbered to Sections in Article 74, filed with the Secretary of State's Office May 15, 1997; effective July 1, 1997 (Supp. 97-2). Effective date corrected Supp. 98-2.

Article 73 consisting of Sections R6-5-7301 through R6-5-7309 adopted effective January 21, 1985.

Former Article 73, consisting of Sections R6-5-7301 through R6-5-7320, repealed effective February 26, 1979.

ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS

Article 74, consisting of Sections R6-5-7401 through R6-5-7469, and Appendix 1 adopted; and Sections R6-5-7470 and R6-5-7471 renumbered from Article 73 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2). Effective date corrected Supp. 98-2.

Former Article 74, consisting of Sections R6-5-7401 through R6-5-7413, repealed effective May 15, 1997 (Supp. 97-2).

Section
 R6-5-7401. Definitions
 R6-5-7402. Request for Initial Application - New Applicant
 R6-5-7403. Letter of Intent - New Applicant
 R6-5-7404. The Licensing Consultation; Time for Completion of Application
 R6-5-7405. Complete Application; Initial License - New Applicant
 R6-5-7406. Site Inspection
 R6-5-7407. Licensing Study
 R6-5-7408. Licensing Decision: Issuance; Denial; Time Frames
 R6-5-7409. Licenses and Operating Certificates: Form; Term; Nontransferability
 R6-5-7410. Licensed Agency: Application for an Operating Certificate for an Additional Satellite Facility
 R6-5-7411. Application for Renewal of License and Operating Certificates
 R6-5-7412. Renewal of License and Operating Certificates: Site Inspection; Time Frames; Standard for Issuance
 R6-5-7413. Notification to Licensing Authority of Changes Affecting License; Staff Changes
 R6-5-7414. Amended License or Operating Certificate
 R6-5-7415. Alternative Method of Compliance
 R6-5-7416. Monitoring
 R6-5-7417. Complaints; Investigations
 R6-5-7418. Corrective Action
 R6-5-7419. Provisional License
 R6-5-7420. Denial, Suspension, and Revocation of a License or Operating Certificate
 R6-5-7421. Adverse Action; Procedures; Effective Date
 R6-5-7422. Appeals
 R6-5-7423. Statement of Purpose; Program Description and Evaluation; Compliance With Adopted Policies; Client Rights; Single Category of Care
 R6-5-7424. Governing Body
 R6-5-7425. Business and Fiscal Management; Annual Audit
 R6-5-7426. Insurance Coverage
 R6-5-7427. Confidentiality
 R6-5-7428. Children's Records: Contents; Maintenance; Destruction
 R6-5-7429. Grievances
 R6-5-7430. Staff Management and Staff Records
 R6-5-7431. General Qualifications for Staff
 R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions
 R6-5-7433. Orientation and Training for Staff
 R6-5-7434. Notification of Unusual Incidents and Other Occurrences
 R6-5-7435. Investigations of Child Maltreatment
 R6-5-7436. Runaways and Missing Children
 R6-5-7437. Staff Coverage; Staff-Child Ratios
 R6-5-7438. Admission and Intake; Criteria; Process; Restrictions
 R6-5-7439. Information and Services Provided to Placing Agency or Person
 R6-5-7440. Orientation Process for a Child in Care
 R6-5-7441. Child's Service Plan: Preparation; Review; Planning Participants
 R6-5-7442. Discharge; Discharge Summary
 R6-5-7443. Personal Care of Children
 R6-5-7444. Children's Clothing and Personal Belongings
 R6-5-7445. Children's Money; Restitution
 R6-5-7446. Nutrition, Menus, and Food Service
 R6-5-7447. Sleeping Arrangements
 R6-5-7448. Visitation, Outings, Mail, and Telephones
 R6-5-7449. Educational and Vocational Services; Work Assignments

- R6-5-7450. Recreation, Leisure, Cultural Activities, and Community Interaction
- R6-5-7451. Religion, Culture, and Ethnic Heritage
- R6-5-7452. Medical and Health Care
- R6-5-7453. Medications
- R6-5-7454. Storage of Medications
- R6-5-7455. Children's Medical and Dental Records
- R6-5-7456. Behavior Management
- R6-5-7457. Body Searches
- R6-5-7458. Buildings; Grounds; Water Supply
- R6-5-7459. Building Interior
- R6-5-7460. Kitchens; Food Preparation; and Dining Areas
- R6-5-7461. Sleeping Areas and Furnishings
- R6-5-7462. Bathrooms
- R6-5-7463. Other Facility Space; Staff Quarters
- R6-5-7464. Fire, Emergency, and Fire Prevention
- R6-5-7465. General Safety
- R6-5-7466. Swimming Areas
- R6-5-7467. Access; Transportation; Outings
- R6-5-7468. Special Provisions for Shelter Care Facilities
- R6-5-7469. Special Provisions and Exemptions for Outdoor Experience Programs
- R6-5-7470. Planning Requirements for Outdoor Experience Programs
- R6-5-7471. Special Physical Environment and Safety Requirements for Outdoor Experience Programs

Appendix 1.

ARTICLE 75. APPEAL AND HEARING PROCEDURES FOR ADVERSE ACTION AGAINST FAMILY FOSTER HOMES, ADOPTION AGENCIES, FAMILY CHILD CARE HOME PROVIDERS, AND PERSONS LISTED ON THE CHILD CARE RESOURCE AND REFERRAL SYSTEM

New Article 75, consisting of Sections R6-5-7501 through R6-5-7508, adopted effective June 4, 1998 (98-2).

Former Article 75, consisting of Sections R6-5-7501 through R6-5-7508, repealed effective November 8, 1982.

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| Section | |
| R6-5-7501. | Definitions |
| R6-5-7502. | Entitlement to a Hearing; Appealable Action |
| R6-5-7503. | Computation of Time |
| R6-5-7504. | Request for Hearing: Form; Time Limits; Presumptions |
| R6-5-7505. | Administration: Transmittal of Appeal |
| R6-5-7506. | Stay of Adverse Action Pending Appeal |
| R6-5-7507. | Hearings: Location; Notice; Time |
| R6-5-7508. | Rescheduling the Hearing |
| R6-5-7509. | Hearing Officer: Duties; Qualifications |
| R6-5-7510. | Change of Hearing Officer; Challenges for Cause |
| R6-5-7511. | Subpoenas |
| R6-5-7512. | Parties' Rights |
| R6-5-7513. | Withdrawal of an Appeal |
| R6-5-7514. | Failure to Appear; Default; Reopening |
| R6-5-7515. | Hearing Proceedings |
| R6-5-7516. | Hearing Decision |
| R6-5-7517. | Effect of the Decision |
| R6-5-7518. | Further Administrative Appeal |
| R6-5-7519. | Appeals Board |
| R6-5-7520. | Judicial Review |

ARTICLE 76. REPEALED

Article 76, consisting of Sections R6-5-7601 through R6-5-7639, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 77. REPEALED

Former Article 77 consisting of Sections R6-5-7701 through R6-5-7704 repealed effective November 8, 1982.

ARTICLE 78. REPEALED

Former Article 78 consisting of Sections R6-5-7801 through R6-5-7804 repealed effective November 8, 1982.

ARTICLE 79. REPEALED

Former Article 79 consisting of Sections R6-5-7901 through R6-5-7913 repealed effective November 8, 1982.

ARTICLE 80. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

- | | |
|------------|--------------------------|
| Section | |
| R6-5-8001. | Goals |
| R6-5-8002. | Objectives |
| R6-5-8003. | Authority |
| R6-5-8004. | Definitions |
| R6-5-8005. | Placement agreement |
| R6-5-8006. | Financial responsibility |
| R6-5-8007. | Eligibility |
| R6-5-8008. | Placement approval |
| R6-5-8009. | Case management |
| R6-5-8010. | Terminating the service |

ARTICLE 81. REPEALED

Former Article 81 consisting of Sections R6-5-8101 through R6-5-8104 repealed effective November 8, 1982.

ARTICLE 82. REPEALED

Former Article 82 consisting of Sections R6-5-8201 through R6-5-8204 repealed effective November 8, 1982.

ARTICLE 83. REPEALED

Article 83, consisting of Sections R6-5-8301 through R6-5-8308, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 84. REPEALED

Former Article 84 consisting of Sections R6-5-8401 through R6-5-8404 repealed effective November 8, 1982.

ARTICLE 85. REPEALED

Former Article 85 consisting of Sections R6-5-8501 through R6-5-8508 repealed effective November 8, 1982.

ARTICLE 86. REPEALED

Article 86, consisting of Sections R6-5-8601 through R6-5-8604, repealed effective December 17, 1993 (Supp. 93-4).

Article 86 consisting of Sections R6-5-8601 through R6-5-8604 adopted effective March 8, 1979.

Former Article 86 consisting of Sections R6-5-8601 through R6-5-8611 repealed effective March 8, 1979.

ARTICLE 87. REPEALED

Article 87, consisting of Sections R6-5-8701 through R6-5-8704, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 88. REPEALED

Former Article 88 consisting of Sections R6-5-8801 through R6-5-8804 repealed effective November 8, 1982.

ARTICLE 89. RESERVED

ARTICLE 90. RESERVED

ARTICLE 91. REPEALED

Article 91, consisting of Sections R6-5-9101 through R6-5-9104, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 92. REPEALED

Article 92, consisting of Sections R6-5-9201 through R6-5-9204, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 93. REPEALED

Former Article 93 consisting of Sections R6-5-9301 through R6-5-9304 repealed effective November 8, 1982.

ARTICLE 94. REPEALED

Former Article 94 consisting of Sections R6-5-9401 through R6-5-9404 repealed effective November 8, 1982.

ARTICLE 95. REPEALED

Former Article 95 consisting of Sections R6-5-9501 through R6-5-9504 repealed effective November 8, 1982.

ARTICLE 96. REPEALED

Former Article 96 consisting of Sections R6-5-9601 through R6-5-9604 repealed effective November 8, 1982.

ARTICLE 97. REPEALED

Former Article 97 consisting of Sections R6-5-9701 through R6-5-9704 repealed effective November 8, 1982.

ARTICLE 98. REPEALED

Former Article 98 consisting of Sections R6-5-9801 through R6-5-9804 repealed effective November 8, 1982.

ARTICLE 99. REPEALED

Former Article 99 consisting of Sections R6-5-9901 through R6-5-9904 repealed effective November 8, 1982.

ARTICLE 100. REPEALED

Former Article 100 consisting of Sections R6-5-10001 through R6-5-10004 repealed effective November 8, 1982.

ARTICLE 101. REPEALED

Former Article 101 consisting of Sections R6-5-10101 through R6-5-10104 repealed effective November 8, 1982.

ARTICLE 102. REPEALED

Former Article 102 consisting of Sections R6-5-10201 through R6-5-10204 repealed effective November 8, 1982.

ARTICLE 103. REPEALED

Former Article 103 consisting of Sections R6-5-10301 through R6-5-10304 repealed effective November 8, 1982.

ARTICLE 104. REPEALED

Article 104, consisting of Sections R6-5-10401 through R6-5-10404, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 105. REPEALED

Article 105, consisting of Sections R6-5-10501 through R6-5-10504, repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 106. REPEALED

Former Article 106 consisting of Sections R6-5-10601 through R6-5-10604 repealed effective November 8, 1982.

ARTICLE 107. REPEALED

Former Article 107 consisting of Sections R6-5-10701 through R6-5-10704 repealed effective November 8, 1982.

ARTICLE 108. REPEALED

Former Article 108 consisting of Sections R6-5-10801 through R6-5-10804 repealed effective November 8, 1982.

ARTICLE 109. REPEALED

Former Article 109 consisting of Sections R6-5-10901 through R6-5-10904 repealed effective November 8, 1982.

ARTICLE 110. REPEALED

Former Article 110 consisting of Sections R6-5-11001 through R6-5-11004 repealed effective November 8, 1982.

ARTICLE 1. REPEALED

Former Article 1 consisting of Sections R6-5-01 through R6-5-103 repealed effective August 3, 1978.

ARTICLE 2. REPEALED

Former Article 2 consisting of Sections R6-5-201 through R6-5-209 repealed effective August 8, 1978.

ARTICLE 3. REPEALED

Former Article 3 consisting of Sections R6-5-301 through R6-5-308 repealed effective July 6, 1976.

ARTICLE 4. REPEALED

Former Article 4 consisting of Sections R6-5-401 through R6-5-420 repealed effective August 3, 1978.

ARTICLE 5. REPEALED

Former Article 5 consisting of Sections R6-5-501 through R6-5-504 repealed effective July 6, 1976.

ARTICLE 6. REPEALED

Former Article 6 consisting of Sections R6-5-601 through R6-5-622 repealed effective July 6, 1977.

ARTICLE 7. REPEALED

Former Article 7 consisting of Sections R6-5-701 through R6-5-716 repealed effective August 3, 1978.

ARTICLE 8. REPEALED

Former Article 8 consisting of Sections R6-5-801 through R6-5-808 repealed effective September 16, 1976.

ARTICLE 9. REPEALED

Former Article 9 consisting of Sections R6-5-901 through R6-5-904 repealed effective August 3, 1978.

ARTICLE 10. REPEALED

Former Article 10 consisting of Sections R6-5-1001 through R6-5-1003 repealed effective August 3, 1978.

ARTICLE 11. REPEALED

Former Article 11 consisting of Sections R6-5-1101 through R6-5-1109 repealed effective August 11, 1976.

ARTICLE 12. REPEALED

Former Article 12 consisting of Sections R6-5-1201 through R6-5-1206 repealed effective May 17, 1976.

ARTICLE 13. REPEALED

Former Article 13 consisting of Sections R6-5-1301 through R6-5-1309 repealed effective November 23, 1976.

ARTICLE 14. REPEALED

Former Article 14 consisting of Sections R6-5-1401 through R6-5-1413 repealed effective May 24, 1976.

ARTICLE 15. REPEALED

Former Article 15 consisting of Sections R6-5-1501 through R6-5-1504 repealed effective August 11, 1976.

ARTICLE 16. RESERVED

ARTICLE 17. REPEALED

Former Article 17 consisting of Sections R6-5-1701 through R6-5-1704 repealed effective August 11, 1976.

ARTICLE 18. REPEALED

Former Article 18 consisting of Sections R6-5-1801 through R6-5-1804 repealed effective August 11, 1976.

ARTICLE 19. REPEALED

Former Article 19 consisting of Sections R6-5-1901 through R6-5-1906 repealed effective July 6, 1976.

ARTICLE 20. REPEALED

R6-5-2001. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2001 repealed, new Section R6-5-2001 adopted effective May 17, 1976 (Supp. 76-3). Amended as an emergency effective August 3, 1976 (Supp. 76-4). Former Section R6-5-2001 repealed, new Section R6-5-2001 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2002. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2002 repealed, new Section R6-5-2002 adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Former Section R6-5-2002 repealed, new Section R6-5-2002 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2003. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2003 repealed, new Section R6-5-2003 adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2003 repealed, new Section R6-5-2003 adopted effective November 8, 1982 (Supp. 82-6). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2004. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2004 repealed, new Section R6-5-2004 adopted effective May 17, 1976 (Supp. 76-3). Amended as an emergency effective

August 3, 1976 (Supp. 76-4). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2004 repealed, new Section R6-5-2004 adopted effective November 8, 1982 (Supp. 82-6). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1983, through June 30, 1984, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 83-3). Exhibit I, Title XX, Social Services Plan, incorporated herein by reference, amended as an emergency effective September 30, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Emergency expired. Permanent amendment adopted effective January 3, 1984 (Supp. 84-1). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1984, through June 30, 1985, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 84-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 1, 1985, through June 30, 1986, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 85-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period July 2, 1986, through June 30, 1987, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 86-4). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period September 24, 1987, through June 30, 1988, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 87-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2) of this rule, is adopted for the program period September 22, 1988, through June 30, 1989, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 88-3). Exhibit I, Title XX, Social Services Plan, incorporated by reference in subsection (C), paragraph (2), of this rule, is adopted for the program period July 1, 1989, through June 30, 1990, and the former Exhibit I, Title XX, Social Services Plan is repealed accordingly (Supp. 89-3). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2005. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Former Section R6-5-2005 repealed, new Section R6-5-2005 adopted effective November 8, 1982 (Supp. 82-6). A new Exhibit I, Title XX, Social Services Plan, referred to in subsection (1) of this rule, is adopted for the program period September 22, 1988 through July 30, 1989 (Supp. 88-3). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2006. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective February 10, 1977 (Supp. 77-1). Amended effective October 31, 1978 (Supp. 78-5). Repealed effective November 8, 1982 (Supp. 82-6).

ARTICLE 21. REPEALED

Former Article 21 consisting of Sections R6-5-2101 through R6-5-2110 repealed effective November 8, 1982.

ARTICLE 22. REPEALED

Former Article 22 consisting of Sections R6-5-2202 through R6-5-2209 repealed effective November 8, 1982.

ARTICLE 23. REPEALED

R6-5-2301. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2301 repealed, new Section R6-5-2301 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2302. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2302 repealed, new Section R6-5-2302 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2303. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2303 repealed, new Section R6-5-2303 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2304. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2304 repealed, new Section R6-5-2304 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2305. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2305 repealed, new Section R6-5-2305 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2306. Repealed

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2306 repealed, new Section R6-5-2306 adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2307. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2308. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18,

1999 (Supp. 99-2).

R6-5-2309. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-2310. Repealed

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Repealed by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

ARTICLE 24. APPEALS AND HEARINGS

Article 24 consisting of Sections R6-5-2401 through R6-5-2405 adopted effective March 1, 1978.

Former Article 24 consisting of Sections R6-5-2401 through R6-5-2404 repealed effective March 1, 1978.

R6-5-2401. Objective

The objective is to ensure and preserve all legal rights in the acquisition of services.

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2401 repealed, new Section R6-5-2401 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2401 repealed, new Section R6-5-2401 adopted effective March 1, 1978 (Supp. 78-2).

R6-5-2402. Authority

- A. A.R.S. § 46-205.
- B. 45 C.F.R. 205.10.
- C. 45 C.F.R. 228.14.

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2402 repealed, new Section R6-5-2402 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2402 repealed, new Section R6-5-2402 adopted effective March 1, 1978 (Supp. 78-2).

R6-5-2403. Definitions

- A. "Department". The Department of Economic Security. This includes contract provider agencies which are acting in behalf of the Department of Economic Security to determine eligibility.
- B. "Contract provider/provider". Any private agency, institution, public agency (as defined in A.R.S. § 11-951) or vendor which has executed an agreement with the Department to furnish services for monetary reimbursement.
- C. "Local office". Any Department of Economic Security or contract provider site from which eligibility determinations and/or services originate.

Historical Note

Adopted as an emergency effective October 2, 1975 (Supp. 75-1). Former Section R6-5-2403 repealed, new Section R6-5-2403 adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2403 repealed, new Section R6-5-2403 adopted effective March 1, 1978 (Supp. 78-2).

R6-5-2404. Basis for a hearing

- A. A person will be granted a hearing for any of the following reasons:

1. Right to apply for social services has been denied.
 2. Application is denied in whole or in part.
 3. Action on an application has not been taken by the Department within 30 days of the date of application.
 4. Service is suspended, terminated or reduced when such action has occurred as a result of an eligibility determination.
- B.** Change in law or policy. A hearing shall not be granted when a change in federal or state law or policy requires service adjustments or discontinuance for classes of recipients.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-2404 repealed, new Section R6-5-2404 adopted effective March 1, 1978 (Supp. 78-2).

R6-5-2405. Hearing process

A. Filing of appeal

1. A request for a hearing shall be filed in writing with the Department or provider within 15 calendar days after the mailing date of the decision letter, except that for appeals on denying, revoking or suspending a license of a child welfare agency or foster home the request shall be filed within 20 calendar days.
2. Except as otherwise provided by statute or by Department regulation, any appeal, application, request, notice, report, or other information or document submitted to the Department shall be considered received by and filed with the Department:
 - a. If transmitted via the United States Postal Service or its successor, on the date it is mailed. The mailing date will be as follows:
 - i. As shown by the postmark.
 - ii. In the absence of a postmark the postage-meter mark of the envelope in which it is received;
 - iii. If not postmarked or postage-meter marked, or if the mark is illegible, the date entered on the document as the date of completion.
 - b. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received by the Department.
 - c. The submission of any appeal, application, request, notice, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation or to delay or other action of the United States Postal Service or its successor.
 - d. Any notice, determination, decision or other data mailed by the Department shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the notice, determination, decision or other data unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, 16 A.R.S.
3. Benefits shall not be reduced or terminated prior to a hearing decision unless due to a subsequent change in household eligibility another notice of adverse action is received and not timely appealed.
4. The local office or provider shall advise the client of any community legal services available and, when requested, shall assist in completing the hearing request.

B. Notice of hearing

1. Hearings will be held at the local office or any other place mutually agreed upon by the hearing officer and appellant. They shall be scheduled not less than 20 nor more than 30 days from the date of filing of the request for hearing. The appellant shall be given no less than 15 days notice of hearing, except that the appellant may waive the notice period or request a delay. For appeals on denying, revoking or suspending a license of a child welfare agency or foster home, however, the hearing shall be held within ten days of the date of filing of the request for hearing.
2. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and of his rights to: present his case in person or through a representative; examine and copy any documents in his case file and all documents and records to be used by the agency at the hearing at a reasonable time prior to the hearing as well as at the hearing; obtain assistance from the local office in preparing his case; and of his opportunity to make inquiry at the local office about the availability of community legal resources which could provide representation at the hearing.
3. Appellant, in lieu of a personal appearance, may submit a written statement, under oath or affirmation, setting forth the facts of the case provided that the statement is submitted to the Department prior to or at the time of the hearing. All parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing, and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
4. The hearing officer may take such action for the proper disposition of an appeal as he deems necessary, and on his own motion, or at the request of any interested party upon a showing of good cause disqualify himself, or may continue the hearing to a future time or reopen a hearing before a decision is final to take additional evidence. If an interested party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or may make his decision upon record and such evidence as may be presented at the scheduled hearing. If, within ten days of the scheduled hearing, appellant files a written application requesting reopening of the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice of the time, place, and purpose of any continued, reopened or rescheduled hearing shall be given to all interested parties.

C. Prehearing summary

1. A prehearing summary of the facts and grounds for the action taken shall be prepared and forwarded to the hearing officer no less than four days prior to the hearing.
2. The summary shall be provided to the appellant prior to the commencement of the hearing.

- D.** Subpoena of witnesses. The hearing officer may subpoena any witnesses or documents requested by the Department or claimant to be present at the hearing. The request shall be in writing and shall state the name and address of the witness and the nature of his testimony. The nature of the witnesses' testimony must be relevant to the issues of the hearing, otherwise the hearing officer may deny the request. The request for the issuance of a subpoena shall be made to give sufficient time, a minimum of three working days, prior to the hearing. A subpoena requiring the production of records and documents shall

specifically describe them in detail and further set forth the name and address of the custodian thereof.

- E.** Review of file. In the presence of a Department representative, the appellant and/or his authorized representative shall be permitted to review, obtain or copy any Department record necessary for the proper presentation of the case.

F. Conduct of the hearing

1. Hearings shall be conducted in an orderly and dignified manner.
2. Hearings are opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence and shall direct the order of proof. He shall have power to administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses, the production of books, papers, correspondence, memoranda and other records he deems necessary as evidence in connection with a hearing.
3. Evidence not related to the issue shall not be allowed to become a part of the record.
4. The hearing officer may, on his own motion, or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
5. The worker, supervisor or other appropriate person may be designated Department representative for the hearing.
6. The appellant and Department representative may testify, present evidence, cross-examine witnesses and present arguments.
7. The appellant may appear for himself or be represented by an attorney or any other person he designates.
8. A full and complete record shall be kept of all proceedings in connection with an appeal, and such records shall be open for inspection by the claimant or his representative at a place accessible to him. A transcript of the proceedings need not, however, be made unless it is required for further proceedings. When a transcript has been made for further proceedings, a copy shall be furnished without cost to each interested party.

G. Hearing decision

1. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Department rules governing the issues in dispute.
2. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons thereof. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and their attorneys of record not more than 60 days from the date of filing the request for appeal, unless the delay was caused by the appellant.
3. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
4. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the hearing officer specifically finds appropriate.
5. When a hearing decision upholds the proposed action of reducing, suspending or terminating a grant, an overpayment is the result.
6. All hearing decisions will be made accessible to the public, subject to meeting the provision for safeguarding confidential information relating to the client.
7. Decision of the hearing officer will be the final decision of the Department unless a reconsideration is requested in accordance with subsection (I).

H. Withdrawal of appeal. An appeal may be withdrawn as follows:

1. Voluntary withdrawal. This may be accomplished by completing and signing the proper Department form or by submitting a letter properly signed.
2. Abandonment or involuntary withdrawal. This occurs when an appellant fails to appear at a scheduled hearing and within ten days thereof fails to request a rescheduled hearing or fails to appear at a rescheduled hearing which he has requested. A hearing may not be considered abandoned if the claimant provides notification up to the time of the hearing that he is unable, due to good cause, to keep the appointment and that he still wishes a hearing.

I. Reconsideration

1. An appellant, within ten calendar days after the decision was mailed or otherwise delivered to him, may request the Director to review the decision. The request shall be in writing and should set forth a statement of the grounds for review, and may be filed personally or by mail.
2. After receipt of an application for leave to appeal, the Director shall:
 - a. Deny the application, or
 - b. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or
 - c. Grant the application and decide the appeal on the record.
3. The Director shall promptly adopt his decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, shall be distributed to each interested party.

Historical Note

Adopted effective March 1, 1978 (Supp. 78-2).

ARTICLE 25. REPEALED

R6-5-2501. Repealed

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).
Former Section R6-5-2501 repealed, new Section R6-5-2501 adopted effective February 26, 1979 (Supp. 79-1).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2502. Repealed

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).
Former Section R6-5-2502 repealed, new Section R6-5-2502 adopted effective February 26, 1979 (Supp. 79-1).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2503. Repealed

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 26. REPEALED

R6-5-2601. Repealed

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2602. Repealed

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2603. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2604. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2605. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2606. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2607. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 27. REPEALED**R6-5-2701. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2702. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2703. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2704. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2705. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2706. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-2707. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 28. REPEALED

Former Article 28 consisting of Sections R6-5-2801 through R6-5-2804 repealed effective November 8, 1982.

ARTICLE 29. REPEALED**R6-5-2901. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2902. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2903. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2904. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2905. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2906. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2907. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2908. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2909. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2910. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2911. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-2912. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 30. REPEALED

Former Article 30, consisting of Sections R6-5-3001 through R6-5-3007, repealed effective August 29, 1984.

ARTICLE 31. REPEALED

Former Article 31, consisting of Sections R6-5-3101 through R6-5-3110, repealed effective November 8, 1982.

ARTICLE 32. REPEALED

R6-5-3201. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3202. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3203. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3204. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3205. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3206. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3207. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3208. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3209. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3210. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-3211. Repealed

Historical Note

Adopted effective November 22, 1978 (Supp. 78-6).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 33. RESERVED

ARTICLE 34. RESERVED

ARTICLE 35. RESERVED

ARTICLE 36. RESERVED

ARTICLE 37. RESERVED

ARTICLE 38. RESERVED

ARTICLE 39. RESERVED

ARTICLE 40. RESERVED

ARTICLE 41. RESERVED

ARTICLE 42. RESERVED

ARTICLE 43. RESERVED

ARTICLE 44. RESERVED

ARTICLE 45. RESERVED

ARTICLE 46. RESERVED

ARTICLE 47. RESERVED

ARTICLE 48. RESERVED

ARTICLE 49. CHILD CARE ASSISTANCE

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4901. Definitions

The following definitions apply to this Article:

1. "Adequate notice" means a notice which explains the action the Department intends to take, the reason for the action, the specific authority for the action, the client's appeal rights, and right to benefits pending appeal, and which is mailed before the effective date of the action.
2. "Appellant" means an applicant or recipient of assistance who is appealing a negative action by the Department.
3. "Applicant" means a person who has filed an application for Child Care Assistance with the Department.
4. "Authorized" means a specific amount of Child Care Assistance has been authorized for an eligible family for a specific period of time to allow reimbursement of a DES registered provider for child care services.
5. "CCA" means the DES Child Care Administration.
6. "Cash Assistance" means a program administered by the Family Assistance Administration which provides temporary Cash Assistance to needy families.
7. "Cash Assistance participant" means a recipient of Cash Assistance.
8. "Child care" means the compensated service that is provided to a child who is unaccompanied by a parent or guardian during a portion of a 24-hour day.
9. "Child Care Assistance" means any money payments for child care services that are paid by the Department and that are paid for the benefit of an eligible family.
10. "Child Care Provider" means child care facilities licensed pursuant to A.R.S. Title 36, Chapter 7.1, Article 4, child care home providers, in-home providers, noncertified relative providers, and regulated child care on military installations or federally recognized Indian Tribes.
11. "Client" means a person who has applied for, requested, has been referred for, or who is currently receiving Child Care Assistance.
12. "Convert" means to reestablish eligibility for a current client who is determined eligible under A.R.S. § 46-801 through 46-810 and this Article.

13. "Countable income" means the amount of gross income for the individuals included in family size which the Department considers to determine eligibility and calculate an assistance amount.
14. "CPS or Child Protective Services" means the child welfare services administration within the Department's Division of Children, Youth, and Family Services.
15. "Current client" means a person who:
 - a. Is receiving child care on the effective date of these rules; and
 - b. Has continuously received Child Care Assistance since on or before July 31, 1997.
16. "Day" means a calendar day unless otherwise specified.
17. "DDD" means the Division of Developmental Disabilities.
18. "Denial" means a formal decision of ineligibility on an application, referral, or request for Child Care Assistance.
19. "Department" means the Arizona Department of Economic Security.
20. "Dependent" means a person under the age of 18, who resides with the applicant and whom the applicant has the legal financial obligation to support.
21. "DES-certified child care provider" means a provider who is certified under A.R.S. § 36-895(B) and (C) and who provides care in either the child's or the provider's own home.
22. "DHS-certified group home" means a provider who is certified under A.R.S. § 36-897.01.
23. "DHS-licensed child care center" means a provider who holds a license as prescribed in A.R.S. § 36-892.
24. "Eligibility criteria" means the requirements an individual or family must meet to receive Child Care Assistance.
25. "Eligible activity" means a specific type of activity which causes an applicant or recipient and any other parent or responsible person in the eligible family to be unavailable to provide care to their children for a portion of a 24-hour day, and which partially determines the amount of Child Care Assistance an eligible family shall receive.
26. "Eligible family" means a group of persons whose needs, income, and other circumstances are considered as a whole for the purpose of determining eligibility and amount of Child Care Assistance.
27. "Eligible need" means a specific type of need which causes an applicant or recipient, and any other parent or responsible person in the eligible family, to be unavailable or incapable to provide care to their children for a portion of a 24-hour day, and which partially determines the amount of Child Care Assistance an eligible family shall receive.
28. "E.S.O.L." means English for Speakers of Other Languages.
29. "Family size" means the applicant, responsible person, and their dependents who reside in the same household. A man and woman legally married, not living in the same household but with the intention of remaining a family, shall be included in the family size. When the applicant requests Child Care Assistance for other related children or children in guardianship in addition to his or her own children, all children shall be included in family size. When foster parents are applying for Child Care Assistance for their own children, the foster child shall not be considered a member of the foster parent's family.
30. "Federal poverty level" (FPL) means the poverty guidelines that are issued by the United States Department of Health and Human Services pursuant to Section 673(2) of the Omnibus Reconciliation Act of 1981; that are reported annually in the Federal Register; which are converted into monthly amounts by the Department; which shall become effective for use in determining eligibility for Child Care Assistance on the 1st day of the state fiscal year immediately following the publication of the annual amount in the Federal Register.
31. "Foster care" means a child placed in a foster home by the Department or an Arizona tribe.
32. "Foster parent" means any person licensed by DES or an Arizona tribe to provide out-of-home care for a foster child.
33. "G.E.D." means General Educational Development.
34. "Homebound" means a person who is confined to the home because of physical or mental incapacity.
35. "Homeless shelter" means a public or private nonprofit program that is targeted to assist homeless families and is designed to provide temporary or transitional living accommodations and a program of services to assist such families toward self sufficiency.
36. "Income" means earned and unearned income combined.
37. "JOBS" or "Job Opportunities and Basic Skills Training Program" means the program which assists Cash Assistance participants to prepare for, obtain, and retain employment. "JOBS" Program also means the Tribal JOBS Program and any other entities who contract with the state to perform this function.
38. "JOBS participant" means a Cash Assistance participant who is participating in the JOBS program as a condition of receiving Cash Assistance.
39. "Local office" means a CCA office which is designated as the office in which Child Care Assistance applications and other documents are filed with the Department and in which eligibility and assistance amounts are determined.
40. "Lump sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, or personal injury and workers' compensation awards.
41. "Mailing date" when used in reference to a document sent 1st class, postage prepaid, through the United States mail, means the date:
 - a. Shown on the postmark;
 - b. Shown on the postage meter mark of the envelope, if there is no postmark; or
 - c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
42. "Minor parent" means an unwed parent under the age of 18 living with his or her own parents.
43. "Negative action" means 1 of the Department actions described in R6-5-4918, including action to terminate assistance or increase the fee level and copayment for Child Care Assistance.
44. "Noncertified relative provider" means a person who is at least 18 years of age, who provides child care services to an eligible child, who is by affinity or consanguinity or by court decree the grandparent, great-grandparent, sibling not residing in the same household, aunt, great aunt, uncle, or great uncle of the eligible child and who meets the Department's requirements to be a noncertified relative provider.
45. "Nonparent relative" means a caretaker relative who exercises responsibility for the day-to-day physical care, guidance, and support of a child who physically resides with the relative and who is by affinity or consanguinity or by court decree a grandparent, great-grandparent, sib-

- ling of the whole or half blood, stepbrother, stepsister, aunt, uncle, great aunt, great uncle, or 1st cousin.
46. "Notice date" means the date which appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
 47. "OSI" or "Office of Special Investigations" means the Department office to which CCA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies and other similar functions.
 48. "Other related child" means a child who is related to the applicant or recipient, and who is not the applicant's or recipient's natural, step, or adoptive child.
 49. "Overpayment" means a Child Care Assistance payment received by a child care provider or for an eligible family which exceeds the amount to which the provider or family was lawfully entitled.
 50. "Parent" means the biological parent whose name appears on the birth certificate or who has legally acknowledged or had an adjudication of paternity, or the adoptive parent of the child.
 51. "Positive action" means the approval, increase, or resumption of service such as increasing the amount of assistance or decreasing the fee level and copayment.
 52. "Recipient" means a person who is a member of an eligible family receiving Child Care Assistance.
 53. "Request for Hearing" means a clear written expression by an applicant or recipient, or such person's representative, indicating a desire to present the case or issue to a higher authority.
 54. "Responsible person" means 1 or more persons, residing in the same household, who have the legal responsibility to financially support:
 - a. One or more of the children for whom Child Care Assistance is being requested, or
 - b. The applicant or recipient for Child Care Assistance.
 55. "Review" means a review of all factors affecting an eligible family's eligibility and assistance amount.
 56. "Work" means the performance of duties on a regular basis for wages or salary.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted and repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4902. Repealed

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section automatically repealed July 31, 1998 (Supp. 98-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S.

Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4903. Redetermination of Eligibility

- A. Effective August 1, 1997, through December 31, 1997, the Department shall redetermine eligibility for all current clients as prescribed in A.R.S. § 46-803(L).
- B. The Department shall conduct redeterminations of eligibility on the client's regularly scheduled review date or when the client submits a change of information, whichever occurs 1st. The Department shall convert or phase out current clients based on the redetermination of eligibility.
- C. The Department shall terminate eligibility no later than June 30, 1998, for current clients who do not meet the eligibility criteria set forth in A.R.S. §§ 46-801 through §§ 46-810 and this Article, as prescribed in R6-5-4922.
- D. The Department shall convert current clients no later than June 30, 1998, who meet eligibility criteria set forth in A.R.S. §§ 46-801 through 46-810 and this Article, as prescribed in this Section.
- E. This Section is automatically repealed on July 31, 1998.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4904. Access to Child Care Assistance

- A. Application for Child Care Assistance.
 1. Any person may apply for Child Care Assistance by filing, either in person or by mail, a Department-approved application form with any CCA office.
 2. The application file date is the date any CCA office receives an identifiable application. An identifiable application contains, at a minimum, the following information:
 - a. The legible name and address of the person requesting assistance; and
 - b. The signature, under penalty of perjury, of the applicant or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
 3. In addition to the identifiable information described in subsection (A)(2), a completed application shall contain:
 - a. The names of all persons living with the applicant and the relationship of those persons to the applicant, and
 - b. All other eligibility information requested on the application form.
- B. Request for Child Care Assistance.
 1. Cash Assistance participants who need Child Care Assistance for employment activities are not required to complete an application.
 2. Child Care Assistance for Cash Assistance participants may begin effective the start date of the eligible activity

but not earlier than the date that the participant requests Child Care Assistance from a local CCA office after the Department has verified eligibility criteria.

C. Referral for Child Care Assistance.

1. JOBS Participants. Cash Assistance participants in JOBS-approved work participation activities who request child care shall be referred by the JOBS Program for Child Care Assistance.
2. Child Protective Services Families (CPS). CPS shall refer families that CPS deems eligible for Child Care Assistance on a case-by-case basis.
3. CPS and DDD Foster Families - CPS or DDD shall determine eligibility for and refer children in the care, custody, and control of DES who need child care services as documented in a foster care case plan.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4905. Initial Eligibility Interview

- A.** Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.
- B.** The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
- C.** The Department may conduct a telephone interview if the applicant has previously verified citizenship or legal residency status as prescribed in R6-5-4911(E).
- D.** During the interview, a Department representative shall:
 1. Assist the applicant in completing the application form;
 2. Witness the signature of the applicant;
 3. Discuss information pertinent to the applicant's child care needs;
 4. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the Child Care Assistance program;
 - b. Any additional verification information as prescribed in R6-5-4906 which the applicant must provide for the Department to conclude the eligibility evaluation;
 - c. The Department practice of exchanging eligibility and income information among Department programs;
 - d. The coverage and scope of the Child Care Assistance program;
 - e. The applicant's rights, including the right to appeal a negative action; and
 - f. The requirement to report all changes within 2 work days from the date the change becomes known;
 5. Review the penalties for perjury and fraud, as printed on the application;
 6. Explain to the applicant who is included in family size for the purpose of determining income eligibility, and whose availability is considered in determining the amount of

Child Care Assistance authorized for each child needing care as prescribed in R6-5-4914(D);

7. Review any verification information already provided;
8. Explain the applicant's duties to:
 - a. Notify the Department regarding initial provider selection or changes in provider in advance of using services or changing providers,
 - b. Pay DES required copayments to the child care provider as assigned by the Department, and
 - c. Pay any additional charges to the provider for the cost of care in excess of the amount paid by the Department.
9. Review all ongoing reporting requirements, and explain that the applicant may incur overpayments for failure to make timely reports.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4906. Verification of Eligibility Information

- A.** The Department shall obtain independent verification or corroboration of information provided by the client when required by law, or when it is necessary to determine eligibility, fee level and copayment assignment, or service authorization amount.
- B.** The Department may verify or corroborate information by any reasonable means including:
 1. Contacting 3rd parties such as employers and educational institutions,
 2. Asking the client to provide written documentation such as pay stubs or school schedules, and
 3. Conducting a computer data match through other Department programs' computer systems.
- C.** The client is responsible for providing all required verification. The Department shall offer to assist a client who has difficulty in obtaining the verification and requests help.
- D.** A client shall provide the Department with all requested verification within 10 calendar days from the notice date of a written request for such information. When a client does not timely comply with a request for information, the Department shall deny the application as provided in R6-5-4908(B).

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4907. Withdrawal of an Application

- A. An applicant may withdraw an application at any time prior to its disposition by providing the Department with a written request for withdrawal signed by the applicant.
- B. If an applicant makes an oral request to withdraw an application:
 - 1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department. The Department shall inform the applicant of the consequences of not returning the withdrawal form within 10 days of the notice date.
 - 2. If the applicant fails to return the completed withdrawal form, the Department shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 days of the date the Department provides the applicant a withdrawal form.
- C. A withdrawal is effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- D. An application that has been withdrawn shall not be reinstated; an applicant who has withdrawn an application shall reapply anew.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4908. Child Care Assistance Approvals and Denials

- A. The Department shall complete the eligibility determination within 30 calendar days of the application file date or referral receipt date, unless:
 - 1. The application or referral is withdrawn,
 - 2. The application or referral is rendered moot because the applicant has died or cannot be located, or
 - 3. There is a delay resulting from a Department request for additional verification information as provided in R6-5-4906(D).
- B. The Department shall deny Child Care Assistance when the applicant fails to:
 - 1. Complete the application and an eligibility interview, as described in R6-5-4905;
 - 2. Submit all required verification information within 10 days of the notice date of a written request for verification, or within 30 days of the application file date whichever is later; or
 - 3. Cooperate during the eligibility determination process as required by R6-5-4911(A).
- C. When an applicant satisfies all eligibility criteria, the Department shall determine the service authorization amount, the fee level and copayment amount (if applicable), approve Child Care Assistance, and send the applicant an approval notice. The approval notice shall include the amount of assistance, fee level and copayment information, and an explanation of the applicant's appeal rights.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4909. 12-month Review

- A. The Department shall complete a review of all eligibility factors for each client at least once every 12 months, beginning with the 12th month following the 1st month of Child Care Assistance eligibility.
- B. The Department may elect to review eligibility factors more frequently than every 12 months.
- C. At least 30 days prior to the 12-month review date, the Department shall mail the client a notice advising of the need for a review, and the requirement to submit a completed review application and verification of income and other eligibility factors for the most recent calendar month.
- D. In response to such notice, the client shall mail or deliver to the Department a completed review application and verification by the date on the notice.
- E. The Department shall verify the client's income and any eligibility factors which have changed or are subject to change.
- F. The Department shall terminate Child Care Assistance effective the review date and deny the review application if the client:
 - 1. Fails to submit the review application by the review date, or
 - 2. Fails to submit requested verification by the review date as required by the Department for a redetermination of eligibility.
- G. If the client submits the review application and required verification within 30 days after the review date, the Department shall not require the client to appear for an intake interview and shall approve Child Care Assistance effective the date that the application and verification were received if other eligibility criteria are met.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4910. Reinstatement of Assistance

- A. If the Department has terminated Child Care Assistance, the Department shall not reinstate assistance unless the client files a new application.
- B. Notwithstanding subsection (A), the Department shall reinstate assistance within 10 calendar days when:

1. Termination was due to Department error; the Department shall reinstate assistance effective the date following the date of termination;
 2. The Department receives a court order or administrative hearing decision mandating reinstatement; the Department shall reinstate assistance effective the date prescribed by the court order or hearing decision; or
 3. The recipient files a request for a fair hearing within 10 days of the notice date of the termination notice and requests that assistance be continued pending the outcome of an appeal; the Department shall reinstate assistance effective the date following the date of termination.
- b. Petition for Permanent Appointment of Guardian (date stamped as received by the court);
 - c. Order of Appointment of a Temporary Guardian;
 - d. Order of Appointment of a Permanent Guardian;
 - e. Letters and Acceptance of Permanent Guardianship.
 3. If the client has not been appointed as a guardian when the Department authorizes Child Care Assistance, the client shall to continue the legal process for appointment in order to retain eligibility for Child Care Assistance.
 4. The client shall verify relationship or guardianship status as requested by the Department.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4911. General Eligibility Criteria

A. Applicant and Recipient Responsibility.

1. An applicant for or recipient of Child Care Assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The client shall:
 - a. Give the Department complete and truthful information;
 - b. Inform the Department of all changes in income, eligible activities as described in R6-5-4912, work or school schedules, or other circumstances affecting eligibility or the amount of assistance authorized, within 2 work days from the date the change becomes known; and
 - c. Comply with all the Department's procedural requirements.
2. The Department may deny an application for or reduce or terminate assistance, if the client fails or refuses to cooperate with the Department to determine eligibility as requested.

B. Eligible Applicants.

1. In order to be considered an eligible applicant for Child Care Assistance, a client shall reside with the child needing care and shall be a relative or guardian as described in this Section.
 - a. The parent of the child for whom assistance is being requested; or
 - b. The nonparent relative related by either blood, adoption, or marriage to the child for whom assistance is requested: brother, sister, aunt, uncle, 1st cousin, grandmother, grandfather, and persons of preceding generations as denoted by "grand", "great", or "great-great".
 - c. A court-appointed legal guardian for the child for whom assistance is requested, or a person who can provide documentation from the court that the process of legal guardianship has been initiated.
2. Acceptable verification of guardianship shall include the following court documents:
 - a. Petition for Temporary Appointment of Guardian (date stamped as received by the court);

C. Arizona Residency. The client and the child for whom assistance is requested shall be Arizona residents and shall be physically present within Arizona.

D. Age of the Child. An eligible child is birth through 12 years of age only; a child aged 13 or older is ineligible for Child Care Assistance.

E. Citizenship and Legal Residency Requirements.

1. The client shall be a United States citizen or shall be a legal resident of the United States.
2. The client shall verify citizenship or legal residency status as requested by the Department by providing a birth certificate, naturalization documentation, or alien or immigration registration documentation from the U.S. Immigration and Naturalization Service (INS).

F. Eligible Activity or Need.

1. The client, and any other parent or responsible person in the household, shall be engaged in an eligible activity or have an eligible need for Child Care Assistance as prescribed in R6-5-4912 which causes them to be unavailable to provide care to the child for whom assistance is requested.
2. Each parent or responsible person in the household shall have an eligible activity or need.

G. Availability of the Parent and Responsible Person.

1. The Department shall consider the availability of the client, and any other parent or responsible person in the household in determining eligibility and the amount of service authorized for each individual child needing care.
2. The parent and any other responsible person in the household shall be unavailable to provide care to the child for whom assistance is being requested for a portion of a 24-hour day due to an eligible activity or need.
3. In a family with more than 1 parent or responsible person, Child Care Assistance shall be authorized for the period of time that neither parent or responsible person is available due to an eligible activity or need only.

H. Provider Selection and Arrangements.

1. The Department shall not authorize Child Care Assistance until the applicant has selected a child care provider. An allowable child care provider for DES Child Care Assistance:
 - a. Shall be 1 of the following:
 - i. A DHS-licensed child care center;
 - ii. A DHS-certified group home;
 - iii. A DES-certified family child care home;
 - iv. A DES-certified in home care provider;
 - v. A DES-noncertified relative provider;
 - vi. A regulated provider meeting requirements established by military installations or federally recognized Indian Tribes.
 - b. Shall have a registration agreement with the Department.
2. The Department shall not authorize Child Care Assistance with a noncertified relative provider when:

- a. Child Care Assistance is requested for a CPS referred family, or a CPS or DDD foster family;
- b. Child Care Assistance is requested by a Cash Assistance participant and the relative is included in the Cash Assistance grant; or
- c. The relative provider is included in family size as prescribed in R6-5-4914(D), or is the applicant for Child Care Assistance.
- d. The relative is the natural, step, or adoptive parent of the child for whom assistance is requested.

Historical Note

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R6-5-4912. Eligible Activity or Need

A. Eligible activities and needs for Child Care Assistance:

- 1. Employment. Full or part-time employment for monetary compensation;
- 2. Self Employment. Full or part time self employment for monetary compensation.
- 3. Education and Training Activities with Minimum Work Requirement. A client who is employed shall be eligible to receive Child Care Assistance for education and training activities as prescribed in subsections (A)(3)(a), (b), and (c).
 - a. Post-secondary education in a college or trade school.
 - i. The client is employed an average of at least 20 hours per week, per calendar month;
 - ii. A self-employed client meets the 20-hour work requirement if the client's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
 - iii. The education or training activity is related to the client's employment goal.
 - iv. The client's educational level is freshman or sophomore as defined by the educational institution, or the educational activities are in pursuit of an Associate Degree, or the client is in training at a vocational or trade school.
 - v. The client shall maintain satisfactory progress in the educational activity and remain in good standing, as defined by the educational institution.
 - vi. The client has not received more than the lifetime limit of 24 months of Child Care Assistance for education and training activities. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 24-month limit.
 - vii. Countable months toward the 24-month limit are those calendar months in which the Department authorized additional child care services for education and training needs; the Depart-

ment shall not calculate the 24-month limit based on monthly usage.

- viii. The client assumes full responsibility for employment goals and educational choices made; the Department is under no obligation to provide Child Care Assistance until educational or employment goals are attained.
- ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
- x. Correspondence courses, home study courses, and study time are not eligible educational activities for Child Care Assistance.
- b. High School, G.E.D., E.S.O.L., and Remedial Educational Activities for Adults age 20 and Older.
 - i. The client is employed an average of at least 20 hours per week, per month.
 - ii. A self-employed client meets the 20-hour work requirement if the person's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
 - iii. The educational or training activity is related to the client's employment goal.
 - iv. The client shall maintain satisfactory progress in the educational activity and remain in good standing, as defined by the educational institution.
 - v. The client has not received more than the lifetime limit of 12 months of Child Care Assistance for education and training activities described in this Section. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 12-month limit.
 - vi. Countable months toward the 12-month limit are those calendar months in which the Department authorized additional child care services for education and training needs. The Department shall not calculate the 12-month limit based on monthly usage.
 - vii. The client assumes full responsibility for employment goals and educational choices made; the Department is under no obligation to provide Child Care Assistance until educational and employment goals are attained.
 - viii. Allowable educational activities are: attendance at high school, G.E.D. or E.S.O.L. classes, or remedial educational activities as determined allowable by the Department.
 - ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
 - x. Correspondence courses, home study courses, and study time are not allowable educational activities for DES Child Care Assistance.
- c. Cash Assistance participants who are sanctioned due to JOBS noncompliance are ineligible for Child Care Assistance for education and training activities in any month when a JOBS sanction is applied to the Cash Assistance case, unless the education and training activities are JOBS approved.
- 4. Teen Parents in Education and Training Activities. Teen parents are eligible for Child Care Assistance for educa-

- tion and training activities according to the following criteria:
- a. The teen parent is under age 20.
 - b. The teen parent is attending high school, G.E.D., or E.S.O.L. classes, or remedial educational activities in pursuit of a high school diploma.
 - c. Child Care Assistance for teen parents for the educational activities described in this Section is not time limited. The teen parent shall continue to receive assistance for the educational activity if eligibility criteria are met and until the teen parent:
 - i. Receives a diploma or certificate; or
 - ii. Attains the age of 20 years, whichever occurs 1st.
 - d. If the teen parent attends post-secondary educational activities, the eligibility criteria outlined under "Post- Secondary Education" in subsection (A)(3)(a) shall apply.
 - e. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
 - f. Correspondence courses, home study courses, and study time are not allowable educational activities for Child Care Assistance.
 - g. Cash Assistance participants who have been sanctioned due to JOBS noncompliance are ineligible for Child Care Assistance for education and training activities in any month that a JOBS noncompliance sanction is applied to the Cash Assistance case, unless the education and training activities are JOBS approved.
5. Participation in JOBS Approved Activities. Individuals participating in the JOBS Program and who receive Cash Assistance shall be eligible for Child Care Assistance if the following criteria are met.
- a. The individual is referred by a JOBS Program Specialist to CCA for Child Care Assistance.
 - b. The individual is required to contact a local DES Child Care Office to notify CCA of the selection of a provider, and to cooperate with CCA to arrange child care services.
 - c. The Child Care service authorization shall be based on the days and hours of the approved JOBS activity as specified by the JOBS Program Specialist in the JOBS referral.
 - d. JOBS participants shall receive Child Care Assistance for JOBS approved educational and training activities only. Educational and training activities that are not JOBS approved are not eligible activities for Child Care Assistance for JOBS participants.
6. Unable or Unavailable to Provide Care. Clients who are unable or unavailable to care for their own children for a portion of a 24-hour day are eligible for Child Care Assistance according to the following criteria.
- a. Clients who are unable to care for their own children due to a physical, mental, or emotional disability are eligible for Child Care Assistance when the diagnosis, inability to care for the children, and anticipated recovery date (or the date of the next medical evaluation) have been verified by a licensed physician, certified psychologist, or certified behavioral health specialist.
 - b. The Department shall authorize Child Care Assistance to cover:
 - i. The amount of time the client is unable to care for the child; and
 - ii. The amount of time needed for ongoing treatment for the specified condition as verified by the physician, certified psychologist, or certified behavioral health specialist.
- c. Child Care Assistance shall not cover intermittent and routine appointments that are not part of an ongoing treatment plan.
- d. Clients participating in a drug rehabilitation program are eligible for Child Care Assistance to participate in activities as specified by the drug rehabilitation program.
- e. Clients participating in a court-ordered community service program are eligible for Child Care Assistance to support required community service participation as specified by the court.
- f. Clients who are residents of a homeless or domestic violence shelter are eligible for Child Care Assistance based on shelter residency, and on verification provided by an authorized representative at the shelter. Child Care Assistance shall cover:
- i. The days and hours that the client is unavailable to provide care to their own child due to participation in shelter-directed activities as verified by an authorized representative of the shelter; and
 - ii. The days and hours that the client is unable to provide care to the client's own child due to a physical, mental, or emotional disability as verified by a licensed physician, certified psychologist, or a certified behavioral health specialist.
7. CPS Referred Families and CPS and DDD Foster Families.
- a. Child Care Assistance shall be provided to families requiring assistance as documented in a CPS case plan, or to children who are in the care, custody, and control of the Department, and who need Child Care Assistance as documented in a foster care case plan.
 - b. Eligibility for Child Care Assistance under this provision shall be determined by CPS and DDD on a case by case basis.
- B. Verification of Eligible Activity or Need.** The client shall verify eligible activities and needs as requested by the Department. Acceptable verification shall include:
1. Pay stubs for the most recent calendar month;
 2. Employer's statement verifying hourly rate of pay, work schedule, and frequency of pay;
 3. Quarterly or annual tax statement for the most recent calendar quarter or year to verify self-employment activities;
 4. Self-employment log to document self-employment activities and income accompanied by receipts for gross sales and business expenses for the most recent calendar month or quarter;
 5. Written verification from an educational institution to verify days and hours of attendance, start and end dates of the activity, educational level, and satisfactory progress;
 6. Written verification from a licensed physician, certified psychologist, or certified behavioral health specialist indicating the diagnosis, inability to care for the child, days and hours that child care is needed, and the anticipated recovery date;
 7. Written verification from a homeless or domestic violence shelter indicating the days, hours, and duration that child care is needed as prescribed in subsection (A)(6)(f).

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4913. Applicants and Recipients as Child Care Providers

- A.** The client for Child Care Assistance may also be the child care provider for any child for whom assistance is requested when:
1. The client works for but is not the DES contracted party for the provision of Child Care Assistance;
 2. The client receives monetary compensation for work performed as a child care provider;
 3. The client cares for other unrelated children, for whom client does not receive Child Care Assistance, as well as for the child for whom the client has applied for Child Care Assistance; and
 4. The client is unavailable to provide care to the child for whom assistance is requested. When the client is also the child care provider, this is defined as:
 - a. There is no "not for compensation" slot available for the child; and
 - b. Caring for the child as well as for the other children for whom the child care provider receives compensation, would exceed the ratio per state certification or licensing standards pursuant to A.R.S. § 36-897.01 and 6 A.A.C. 5, Article 52.
- B.** If there is no "not for compensation" slot available for the child, and other eligibility criteria described in this Article are met, the client for Child Care Assistance may also be the child care provider for the child for whom assistance is requested.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4914. Income Eligibility Criteria

- A.** Child Care Assistance Without Regard to Income. The Department shall not determine income eligibility for Child Care Assistance for the following:
1. JOBS participants who need Child Care Assistance to participate in the JOBS Program, and who are referred to CCA as prescribed in R6-5-4904(B).
 2. Cash Assistance participants who need Child Care Assistance to maintain employment.
 3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA as prescribed in R6-5-4904(B).
- B.** Child Care Assistance With Regard to Income. The Department shall determine income eligibility for Child Care Assistance for the following:
1. Former Cash Assistance participants who need Child Care Assistance to maintain employment as prescribed in R6-5-4916(A).
 2. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment.
 3. Teen parents who need Child Care Assistance for educational activities as prescribed in R6-5-4912(A)(4).
 4. Client who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter as prescribed in R6-5-4912(A)(6).
- C.** Income Maximum for Child Care Assistance. The Department shall determine income eligibility by calculating the gross monthly income of all family members included in family size unless otherwise excluded as prescribed in subsections (D), (E), (F), and (H).
1. If the gross monthly income for the family is equal to or less than 135% FPL, the family meets the income eligibility requirements for Child Care Assistance.
 2. If the gross monthly income for the family exceeds 135% FPL, the family does not meet the income eligibility requirements for Child Care Assistance.
- D.** Family Size Determination. The Department shall determine family size for the purpose of determining income eligibility as prescribed in this subsection.
1. Family size shall consist of:
 - a. The applicant for Child Care Assistance;
 - b. The applicant's natural, adoptive, and step children;
 - c. Any other parent or responsible person living in the household who is legally and financially responsible for either the applicant, or for the children needing care; and
 - d. The children of the other parent or responsible person residing in the same household.
 2. When a parent applies for Child Care Assistance for natural, adoptive, or step children:
 - a. If the applicant and other adult in the household are married, or have children in common who need child care, 1 family size determination shall be made for the family.
 - b. The income of both parents shall be counted.
 3. When a nonparent relative applies for Child Care Assistance for other related children only (children who are not the applicant's own children, but who are related, such as grandchildren, nieces, nephews, siblings, or 1st cousins):
 - a. Family size shall consist of the other related child or children only; the nonparent relative shall not be included.
 - b. The nonparent relative's and his or her spouse's income shall be excluded.
 4. When the applicant applies for Child Care Assistance for natural, adoptive, or step children, and also for other related children, 1 family size determination shall be made for the family:
 - a. Family size shall consist of the applicant, the applicant's children, the other related children who need care, and any other parent or responsible person in the household.
 - b. The applicant's and other parent's or responsible person's income shall be counted.

- c. Any income received by or for the "other related" child shall be counted.
 5. When an unwed minor parent applies for Child Care Assistance for his or her own child and resides with his or her parents:
 - a. One family-size determination shall be made for the family.
 - b. The following shall be included in family size:
 - i. The minor parent;
 - ii. The minor parent's child;
 - iii. The parents of the minor parent; and
 - iv. The minor parent's siblings (under age 18).
 - c. The income of the minor parent and his or her parents shall be considered in the income eligibility determination.
 6. When a guardian applies for Child Care Assistance for a child in guardianship only:
 - a. One family-size determination shall be made for the child in guardianship.
 - b. All children in guardianship shall be included in family size (separate family size determinations shall not be made for individual children in guardianship).
 - c. The guardian and their spouse shall not be included in family size; their income shall be excluded.
 - d. Income received by or for the children in guardianship shall be counted.
 7. When the applicant applies for Child Care Assistance for natural, step, or adoptive children in addition to the children in guardianship:
 - a. One family-size determination shall be made.
 - b. Family size shall consist of the applicant, the applicant's children, the children in guardianship and any other parent or responsible person in the household.
 - c. The applicant's and other parent's or responsible person's income shall be counted.
 - d. Income received by or for the children in guardianship shall be counted.
- E. Countable Income. The Department shall count the gross monthly income of a family as prescribed in subsection (D); countable income shall include:
 1. Gross earnings received for work including wages, salary, armed forces pay, commissions, tips, overtime, piece-rate payments, and cash bonuses earned, before any deductions.
 2. Net income from non-farm self employment which includes gross receipts minus business expenses. Gross receipts include the value of all goods sold and services rendered. Business expenses include costs of goods and services purchased or produced, rent, heat, light, power, depreciation charges, wages, and salaries paid, business taxes, and other expenses incurred in operating the business. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
 3. Net income from farm self employment which includes gross receipts minus operating expenses. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include costs of feed, fertilizer, seed, and other farming supplies, wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes, and other expenses incurred in operation of the farm. The value of fuel, food, or other farm products used for family living is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
4. Social Security payments prior to deductions for medical insurance including Social Security benefits and "survivors" benefits, and permanent disability insurance payments made by the Social Security Administration.
5. Railroad retirement insurance income.
6. Dividends including interest on savings, stocks and bonds, income and receipts from estates or trusts, net rental income or royalties, receipts from boarders or lodgers (net income received from furnishing room and board shall be 1/3 of the total amount charged). Interest on Series H. United States Government Savings bonds.
7. Mortgage payments received shall be prorated on a monthly basis.
8. Public assistance payments including payments from the following programs: Cash Assistance, Supplemental Security Income (SSI), State Supplementary Payments (SSP), General Assistance (GA), Bureau of Indian Affairs General Assistance (BIAGA), and Tuberculosis Control (TC).
9. Pensions and annuities including pensions or retirement benefits paid to a retired person or their survivors by a former employer or by a union, or distributions or withdrawals from an individual retirement account.
10. Unemployment Insurance payments including compensation received from government unemployment insurance agencies or private companies during periods of unemployment, and any strike benefits received from union funds.
11. Workers' compensation payments.
12. Money received from the Domestic Volunteer Act when the adjusted hourly payment is equal to or greater than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP).
13. Alimony or spousal maintenance which shall be counted the month received.
14. Child support which shall be counted the month received.
15. Veterans' pensions including benefits and disability payments paid periodically by the Veterans Administration to members of the Armed Forces or to a survivor of deceased veterans.
16. Cash gifts received on a monthly basis from relatives, other individuals, and private organizations, as a direct payment in the form of money.
17. Money received through the lottery, sweepstakes, contests, or through gambling ventures whether received on an annuity or lump sum basis.
18. Any other source of income not specifically excluded in subsection (F).
- F. Excluded Income. The Department shall exclude the items listed in this subsection when determining a family's gross monthly income.
 1. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;
 2. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act;

3. Money or capital gains received as a lump sum, from the sale of personal or real property, such as stocks, bonds, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self employment);
 4. Withdrawals of bank deposits;
 5. Loans; money borrowed;
 6. Tax refunds;
 7. Any monies received through the federal Earned Income Credit (EIC);
 8. One time lump sum awards or benefits, including:
 - a. Inherited funds;
 - b. Insurance awards;
 - c. Damages recovered in a civil suit;
 - d. Monies contributed by a client to a retirement fund that are later withdrawn prior to actual retirement; and
 - e. Retroactive public assistance payments;
 9. The value of U.S. Department of Agriculture (USDA) Food Stamps;
 10. The value of USDA-donated food;
 11. The value of any supplemental food assistance received under the Child Nutrition Act of 1966 and special food service program for children under the National School Lunch Act, the Women, Infant, and Children Program (WIC), Child and Adult Care Food Program (C.A.C.F.P.), and the School Lunch Program;
 12. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (for example, Navajo/Hopi Relocation Act);
 13. Earnings of a child who is under the age of 18 and attending high school or other training program, and who is not an unwed minor parent who needs Child Care Assistance for his or her own child;
 14. Home produce used for household consumption;
 15. Government-sponsored training program expenses (TRE payments) such as: training-related expenses paid to JOBS participants and Job Training Partnership Act (JTPA) training expenses paid directly to the client;
 16. The value of goods or services received in exchange for work;
 17. Interest on Series E, United States Government Savings bonds;
 18. Foster care maintenance payments received for care of foster children;
 19. Adoption subsidy payments received for the care of adopted children;
 20. Educational loans, grants, awards, and scholarships regardless of their source, including Pell Grants, Supplemental Educational Opportunity Grants (SEOG), Bureau of Indian Affairs (BIA) Student Assistance Grants, college work-study income, Carl D. Perkins Vocational and Applied Technology Education Act income, and any other state or local, public, or private educational loans, grants, awards, and scholarships;
 21. Money received from the Domestic Volunteer Act when the adjusted hourly payment is less than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP);
 22. Housing and Urban Development (HUD) benefits, cash allowances and credits against rent;
 23. Vendor payments including payments made directly to a 3rd party by friends, relatives, charities, or agencies to pay bills for the client;
 24. Vocational Rehabilitation training-related expenses (TRE) which are reimbursements for expenses paid. Sub-sistence and maintenance allowances, and incentive payments not designated as wages;
 25. Disaster relief funds and emergency assistance provided under the Federal Disaster Relief Act, and comparable assistance provided by a state or local government, or disaster assistance organization;
 26. Energy assistance including all state or federal benefits designated as "energy assistance" or assistance from a municipal utility or non-profit agency;
 27. Agent Orange payments;
 28. Any other income specifically excluded by applicable state or federal law.
- G.** Income Deduction. Child support that is paid for dependents who do not reside in the same household with the eligible family shall be deducted from the monthly gross countable income prior to income calculation and fee level and copayment assignment as prescribed in subsection (H) and R6-5-4915.
- H.** Income Calculation. The Department shall calculate monthly income as prescribed in this subsection.
1. The Department shall include all income of all family members included in the family-size determination, other than income excluded as prescribed in R6-5-4914(F) in the determination of income eligibility.
 2. The Department shall calculate a monthly figure for each source of income separately with the appropriate method used for calculation.
 3. After calculating monthly income for each source of income, the Department shall add the monthly amounts from each source to obtain the total monthly income.
 4. The Department shall convert income received less often than monthly to a monthly figure as provided in this subsection.
 - a. The Department shall prorate the total income over the number of months that the income is intended to cover.
 - b. If the income is received on or after the date of application, a monthly share of income shall be considered beginning with its earliest possible effective date and for a number of months equal to the number of months which the income covers.
 - c. If the family receives the income prior to the date of application, the number of months that the income is intended to cover shall be equal to the number of months of coverage remaining.
 5. When a family receives a new income source that will be received monthly, weekly, bi-weekly, or semi-monthly, the income shall not be considered available to the family until the date that the 1st payment is received. Until the monies are available to the client, a new fee level or ineligibility shall not be assessed to the client. When a client has already received the payment which includes the new income source, and a higher fee level or ineligibility results, the Department shall send a 10-day negative action notice prior to increasing the fee level or terminating assistance.
 6. The Department shall convert income received more often than monthly, for a period covering less than a month, to a monthly amount by 1 of the methods listed below.
 - a. If the income amount does not vary and is received monthly, weekly, bi-weekly, or semi-monthly, the conversion to a monthly amount will be obtained by multiplying the pay period amount by:
 - i. 1, if monthly;

- ii. 4.3, if weekly;
 - iii. 2.15, if bi-weekly; or
 - iv. 2, if semi-monthly.
 - b. This amount shall be applied as income on an ongoing monthly basis until there is a change in the income.
 - c. If the monthly income received varies in amount and frequency, and exact monthly figures are unavailable, the Department shall use an average monthly figure.
7. When the Department calculates the gross monthly income for the family, the whole dollar amount only shall be used to determine income eligibility, and fee level and copayment assignment; any amount that is a fraction of a whole dollar shall be rounded down to the next whole dollar.
- I. Verification of Income. The client shall verify income by providing written documentation of income as requested by the Department such as:
- 1. Pay stubs for the most recent calendar month, or for any month of potential overpayment;
 - 2. Employer's statement verifying work schedule, hourly rate of pay, and frequency of pay;
 - 3. Benefit award statements for the most recent benefit period;
 - 4. Statements of account to verify interest income;
 - 5. Quarterly or annual tax returns for the most recent quarter or year for self-employment income;
 - 6. Self-employment log accompanied by gross sales receipts and business expense receipts for the most recent calendar month or quarter; and
 - 7. Other written documentation from the source of the income indicating the amount of income received, source of income, frequency received, and naming the payee.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4915. Fee Level and Copayment Assignment

- A. The Department shall assign a fee level to the family based on family size and monthly gross countable income, as specified in Appendix A.
- B. The Department shall assign individual minimum required copayment amounts for each child in the family based on the fee level assignment, and the number of children needing care, as specified in Appendix A.
- C. The Department shall not assign a fee level or minimum required copayment to JOBS participants, Cash Assistance participants who need Child Care Assistance for employment, or families determined eligible and referred by CPS or DDD.
- D. When a client fails to pay the DES-required copayment, or fails to make satisfactory arrangements for payment of the DES-required copayment with a child care provider, the client is ineligible for Child Care Assistance.
- E. When the Department has determined that an client is ineligible for Child Care Assistance due to nonpayment of the copay-

ment, the client is ineligible for any Child Care Assistance program that requires a copayment until past-due copayments have been paid, or until satisfactory arrangement have been made with the provider for payment.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4916. Special Eligibility Criteria

- A. Transitional Child Care
 - 1. Former Cash Assistance participants who are attempting to achieve independence from the Cash Assistance program, who need Child Care Assistance for employment, and who are otherwise eligible shall receive up to 24 months of Transitional Child Care Assistance.
 - 2. The former Cash Assistance participant shall have received Cash Assistance in Arizona in at least 1 month and shall apply for Child Care Assistance within 6 months after the Cash Assistance case closure date.
 - 3. The former Cash Assistance participant and any other parent or responsible person in the household shall need Child Care Assistance to maintain employment.
 - 4. The most recent Cash Assistance case closure shall not have been due to a sanction for JOBS or Child Support noncompliance, and the Cash Assistance participant shall not have been sanctioned due to intentional program violation (IPV) at the time of the most recent Cash Assistance case closure.
- B. Cash Assistance Diversion Participants.
 - 1. Applicants for Cash Assistance who are diverted from long-term Cash Assistance through the Cash Assistance Diversion program shall be treated as Cash Assistance participants during the 3-month period that the Cash Assistance Diversion payment covers.
 - 2. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for employment activities without regard to income as prescribed in R6-5-4914(A) during the 3-month Diversion period.
 - 3. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for job search activities during the 3-month Diversion period.
 - 4. Cash Assistance Diversion participants shall be eligible for Transitional Child Care after the 3-month Diversion period if the income eligibility requirements in R6-5-4914(B) and the TCC requirements in subsection (A) of this provision are met.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in

the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4917. Authorization of Child Care Assistance

- A. Authorization Based on Eligible Activity or Need. The Department shall authorize Child Care Assistance for a portion of each 24-hour day based on the verified eligible activity or need of the parent and responsible person for the child needing care.
- B. Authorization Based on Unavailability. The amount of Child Care Assistance authorized by the Department shall be based on the amount of time that the client and any other parent or responsible person in the household are unavailable or incapable to provide care to their own children due to an eligible activity or need as prescribed in R6-5-4911(F) and R6-5-4912. When there are 2 or more parents or responsible persons in the household, Child Care Assistance shall be authorized for the amount of time that neither parent or responsible person is available due to an eligible activity or need.
- C. Authorization for Self-employment Activities.
 - 1. The Department shall authorize Child Care Assistance for self-employment activities based on monthly net income divided by the current hourly minimum wage standard.
 - 2. Authorization of Child Care Assistance for self-employment activities shall not exceed the lesser of:
 - a. The maximum number of Child Care Assistance units that can be authorized as prescribed in subsections (B) and (D), or
 - b. The number of hours calculated by dividing monthly net income from self-employment by the amount of the hourly minimum wage standard, or
 - c. The number of hours of Child Care Assistance needed by the client to perform self employment activities.
- D. Units of Child Care Assistance.
 - 1. The Department shall authorize Child Care Assistance in full- and part-day units;
 - 2. The Department shall not authorize more than 31 units for each child, per child care provider in a calendar month;
 - 3. A part-day unit of Child Care Assistance is less than 6 hours;
 - 4. A full-day unit of Child Care Assistance is 6 hours or more;
 - 5. Each child care provider determines the upper limit of what constitutes a full day of care for that provider.
- E. Date of Eligibility. The Department shall approve eligibility for Child Care Assistance effective the application file date or referral receipt date as described in R6-5-4904 if the client satisfies all applicable conditions of eligibility as prescribed in this Article.
- F. Date of Authorization.
 - 1. The Department shall authorize Child Care Assistance to begin effective the start date of the eligible activity or need, but not earlier than application file date, request date, or referral receipt date as described in R6-5-4904.
 - 2. The Department may authorize Child Care Assistance with an effective date that precedes the referral receipt date when the referral is received untimely due to administrative delay and the eligible start date of the activity or need precedes the referral receipt date for clients who are referred for Child Care Assistance as described in R6-5-4904 (B).
- G. Exclusion from Authorization. The Department shall not authorize Child Care for educational services for children enrolled in grades 1 through 12 when such services are provided during the regular school day.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4918. Denial or Termination of Child Care Assistance

The Department shall deny or terminate Child Care Assistance and provide written notification as prescribed in R6-5-4919 when the client:

1. Is not an eligible applicant as prescribed in R6-5-4911(B);
2. Is not a U.S. citizen or legal resident of the U.S.;
3. Is not a resident of the state of Arizona;
4. Has no children under the age of 13;
5. Has income that exceeds the maximum allowable as prescribed in R6-5-4914(C);
6. Does not have an eligible need, and is not engaged in an eligible activity as prescribed in R6-5-4912;
7. Is available to care for the children for whom assistance is requested (or there is another parent or responsible person in the household who is not engaged in an eligible activity and is available to provide care);
8. Has not provided the information or documentation required for a determination or redetermination of eligibility;
9. Has failed to cooperate in the arrangement of child care services;
10. Has not selected a child care provider who is registered with the Department;
11. Has requested that the application be withdrawn or that assistance be terminated;
12. Is a member of a family which already has an active case or pending application on file for Child Care Assistance;
13. Cannot be located by phone or mail and mail addressed to last known address has been returned;
14. Is deceased, incarcerated, or confined to an institution; or
15. Does not satisfy 1 or more eligibility criteria listed in R6-5-4904 through R6-5-4916.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4919. Notification Requirements

- A. The Department shall mail or deliver written notice to the client as follows:

1. On a decision about an application, within 30 calendar days of the date that the Department receives the completed application.
 2. On a positive action, the Department shall mail adequate notice on or before the date the action will become effective.
 3. On a change in the amount of authorized units based on a change in need, the Department shall mail adequate notice on or before the date the action will become effective.
 4. On a negative action, the Department shall mail the notice at least 10 calendar days in advance of the date the action will become effective.
 5. On changes in law or policy which affect entire classes or groups and concern issues not related to individual questions of fact, the Department shall issue notice of such action at least 10 calendar days in advance of the effective date of the action.
- B.** The Department shall not provide notice on a negative action when:
1. Child Care Assistance authorized for a specified period of time is terminated and the individual was informed in writing of the termination date when the Child Care Assistance was initiated;
 2. The applicant, client, or child is deceased; and
 3. There is a loss of contact with the client and mail addressed to the last known address has been returned.
- C.** Written notice shall include a statement of the action to be taken, the reasons for the intended action, citation to the specific rule supporting the action, and an explanation of the client's rights regarding a request for a fair hearing.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4920. Overpayments

- A.** Overpayments; Date of Discovery.
1. The Department shall pursue collection of all client- and provider-caused overpayments.
 2. The Department discovers an overpayment on the date the Department determines that an overpayment exists.
 3. The Department shall write an overpayment report within 90 days of the discovery date.
 4. If the CCA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
 5. The Department shall not attempt to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of fraud, and the Department has exhausted reasonable efforts to collect the overpayment and has determined that it is no longer cost effective to pursue the claim.
- B.** Overpayments: Persons Liable. The Department shall pursue collection of an overpayment from:
1. The client if the overpayment was caused by the client;
 2. Any individual member of the family who was included in family size as prescribed in R6-5-4914 (D) during the overpayment period if the overpayment was caused by the client; or
 3. The child care provider if the overpayment was caused by the provider.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4921. Appeals

- A.** Entitlement to a Hearing.
1. An applicant for or recipient of Child Care Assistance is entitled to a hearing to contest the following Department actions:
 - a. Denial of the right to apply for assistance;
 - b. Complete or partial denial of an application for assistance;
 - c. Failure to make an eligibility determination on an application within 30 days of the application file date;
 - d. Suspension, termination, reduction, or withholding of assistance except as provided in subsection (B);
 - e. Increase in the fee level and DES-required copayment amount; or
 - f. The existence or amount of an overpayment attributed to the family or the terms of a plan to repay the overpayment.
 2. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.
- B.** Request for Hearing; Time Limits.
1. A person who wishes to appeal a negative action shall file a written request for a fair hearing with a local CCA office, within 10 days of the negative action notice date.
 2. A request for a hearing is deemed filed;
 - a. On the date it is mailed, if transmitted via the United States Postal Service or its successor. The mailing date is as follows:
 - i. As shown by the postmark;
 - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - iii. The date entered on the document as the date of its completion, if there is no postmark or no postage meter mark, or if the mark is illegible.
 - b. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(2)(a).
 3. The submission of any document is considered timely if the appellant proves that delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

4. Any document mailed by the Department is considered as having been given to the addressee on date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts.
 5. The Office of Appeals shall deny any request that is not timely filed. A party may appeal a decision on the timeliness of an appeal.
- C. Hearing Requests; Preparation and Processing.**
1. Within 2 work days of receiving a request for appeal, the local CCA office shall notify the Office of Appeals of the hearing request.
 2. Within 10 days of receiving a request for appeal, the local CCA office shall prepare and forward to the Office of Appeals a prehearing summary which shall include:
 - a. The appellant's name (and case name, if different);
 - b. The appellant's SSN (or case number, if different);
 - c. The local office responsible for the appellant's case;
 - d. A brief summary of the facts surrounding, and the grounds supporting, the negative action;
 - e. Citations to the specific provisions of this Article or the Department's CCA manual which support the Department's action; and
 - f. The decision notice and any other documents relating to the appeal.
 3. The local office shall mail the appellant a copy of the summary. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearings.
- D. Continuation of Assistance Pending Appeal; Exceptions.**
1. If an appellant files a request for appeal within 10 calendar days of the negative action notice date, the Department shall continue assistance at the current level unless:
 - a. The appellant waives continuation of current assistance,
 - b. The appeal results from a change in federal or state law which mandates an automatic adjustment for all classes of recipients and does not involve a misapplication of the law, or
 - c. The appellant is requesting continuation of TCC benefits for longer than the 24-month eligibility period.
 2. The negative action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
 - a. At the hearing and on the record, the hearing officer finds that the sole issue involves application of law, and the Department properly applied the law and computed the assistance due the appellant;
 - b. A change in eligibility or assistance amount occurs for reasons other than those being appealed, and the eligible family receives and fails to timely appeal a notice of negative action concerning such change;
 - c. Federal or state law mandates an automatic adjustment for classes of recipients;
 - d. The appellant withdraws the request for hearing; or
 - e. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.
 3. Upon receipt of a decision in favor of the Department, the Department shall write an overpayment for the amount of any assistance the family received in excess of the correct amount, while the stay was in effect.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4922. Termination and Phase-out of Ineligible Current Clients

- A.** The Department shall terminate Child Care Assistance and phase-out current clients who are determined ineligible under R6-5-4903(C) as prescribed in this Section.
1. When the Department plans to terminate Child Care Assistance, the Department shall send the client a negative action notice at least 10 days before the effective date of termination.
 2. Except as otherwise prescribed in subsection (A)(3), the Department shall terminate eligibility for a client who is determined ineligible as prescribed in R6-5-4903(C) on the 11th day following the redetermination of eligibility as prescribed in R6-5-4903(B).
 3. The Department shall provide Child Care Assistance beyond the 10th day following redetermination, but no later than June 30, 1998, in the following circumstances.
 - a. Current clients who were receiving Child Care Assistance before August 1, 1997, for independent job search activities shall remain authorized for assistance through the duration of their current 30-day job search authorization period only.
 - b. Current clients who were receiving Child Care Assistance before August 1, 1997, for unemployment insurance (UI) job search activities shall remain authorized for assistance through the duration of the UI claim.
 - c. Current clients who were receiving Child Care Assistance before August 1, 1997, for public job search activities shall remain authorized for assistance through their current work readiness activity.
 - d. Current clients who were clients receiving Child Care Assistance before August 1, 1997, for education and training shall remain authorized for Child Care Assistance through their current semester or school term, only.
 - e. Current clients who were receiving TCC before August 1, 1997, pursuant to R6-12-612, R6-12-613, and R6-12-614 shall remain authorized for Child Care Assistance until the earlier of:
 - i. The end of the 24-month TCC eligibility period,
 - ii. They apply for and receive Cash Assistance, or
 - iii. 6/30/98.
- B.** Current clients who have received Child Care Assistance since July 31, 1997, or earlier, and whose cases are closed effective August 1, 1997, or later for any reason (other than administrative error) shall be treated as "new" applicants if they reapply for Child Care Assistance; the Department shall determine eligibility pursuant to A.R.S. §§ 46-801 through 46-810 and the provisions of this Article.

Department of Economic Security - Social Services

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005 (A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and

Editor's Note: The following Appendix was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005 (A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Appendix to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Appendix.

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES - CHILD CARE ADMINISTRATION
CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE**

EFFECTIVE JULY 1, 1998

Family Size ↓	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0 - 571	572 - 671	672 - 906	907 - 973	974 - 1040	1041 - 1108
2	0 - 770	771 - 905	906 - 1,222	1,223 - 1,313	1,314 - 1,403	1,404 - 1,494
3	0 - 968	969 - 1,138	1,139 - 1,537	1,538 - 1,651	1,652 - 1,764	1,765 - 1,878
4	0 - 1,166	1,167 - 1,371	1,372 - 1,851	1,852 - 1,988	1,989 - 2,125	2,126 - 2,263
5	0 - 1,365	1,366 - 1,605	1,606 - 2,167	2,168 - 2,328	2,329 - 2,488	2,489 - 2,649
6	0 - 1,563	1,564 - 1,838	1,839 - 2,482	2,483 - 2,666	2,667 - 2,849	2,850 - 3,033
7	0 - 1,761	1,762 - 2,071	2,072 - 2,796	2,797 - 3,003	3,004 - 3,210	3,211 - 3,418
8	0 - 1,960	1,961 - 2,305	2,306 - 3,112	3,113 - 3,343	3,344 - 3,573	3,574 - 3,804
9	0 - 2,158	2,159 - 2,538	2,539 - 3,427	3,428 - 3,681	3,682 - 3,934	3,935 - 4,188
10	0 - 2,356	2,357 - 2,771	2,772 - 3,741	3,742 - 4,018	4,019 - 4,295	4,296 - 4,573
11	0 - 2,555	2,556 - 3,005	3,006 - 4,057	4,058 - 4,358	4,359 - 4,658	4,659 - 4,959
12	0 - 2,753	2,754 - 3,238	3,239 - 4,372	4,373 - 4,696	4,697 - 5,019	5,020 - 5,343

MINIMUM REQUIRED CO-PAYMENTS**

1st child in care	full day = \$1.00 part day = \$.50	full day = \$2.00 part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
2nd child in care	full day = \$.50 part day = \$.25	full day = \$1.00 part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50
3rd child in care	full day = \$.50 part day = \$.25	full day = \$1.00 part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50

No minimum required co-pay for 4th {or more} child in care. Full day = 6 or more hours; part day = less than 6 hours.

* Federal Poverty Level (FPL) = US DHHS 1998 poverty guidelines.

** Families receiving child care assistance based upon involvement with Child Protective Services/Foster Care, the JOBS Program or those who are receiving cash assistance (for-

approval; and the Department was not required to hold public hearings on this Section.

R6-5-4923. Maximum Reimbursement Rates For Child Care

The Department shall pay the maximum reimbursement rates for child care as set forth in Appendix B.

Historical Note

Adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Secretary of State's Office June 30, 1998 (Supp. 98-2).

merly AFDC) and who are employed, will not have an assigned fee level and will not have a minimum required co-payment. However, all families may be responsible for charges above the Minimum Required Co-Payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

Historical Note

Appendix A adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).
Appendix A repealed; new Appendix A adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2).

Editor's Note: The following Appendix was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005 (A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Appendix to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Appendix.

Appendix B. Maximum Reimbursement Rates for Child Care

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES
CHILD CARE ADMINISTRATION**

MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE
(effective for services provided on or after 7/1/98)

CENTERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	21.20	19.91	16.00	15.00	14.00	16.47
Part day	16.00	14.00	10.00	10.00	10.00	10.60
1 yr < 3 yrs:						
Full day	19.00	17.60	15.00	15.00	16.00	16.47
Part day	13.60	12.40	12.00	10.00	10.00	10.60
3 yrs < 6 yrs:						
Full day	18.00	16.00	14.00	15.00	14.00	15.81
Part day	11.60	11.09	10.00	10.00	10.00	7.44
6 yrs < 13 yrs:						
Full day	17.40	15.60	14.00	14.00	13.75	13.00
Part day	10.00	8.80	8.00	10.00	8.00	9.16

GROUP HOMES

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	16.00	15.00	15.00	14.00	15.00	14.00
Part day	10.00	10.00	7.50	7.00	7.50	12.00
1 yr < 3 yrs:						
Full day	15.00	15.00	15.00	13.95	15.00	13.00
Part day	10.00	10.00	7.50	7.44	7.50	8.00
3 yrs < 6 yrs:						
Full day	15.00	15.00	15.00	13.00	15.00	13.00
Part day	10.00	10.00	7.50	7.00	7.50	8.00
6 yrs < 13 yrs:						
Full day	15.00	14.00	15.00	13.00	15.00	15.00
Part day	10.00	8.00	7.20	7.00	7.50	8.00

CERTIFIED FAMILY HOMES & CERTIFIED IN-HOME PROVIDERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	16.00	15.00	15.00	13.00	14.00	14.00
Part day	9.00	8.00	8.00	7.50	7.00	8.00
1 yr < 3 yrs:						
Full day	15.00	14.00	13.00	12.00	12.00	12.00
Part day	8.00	8.00	7.00	7.00	7.00	7.50
3 yrs < 6 yrs:						
Full day	15.00	14.00	12.00	12.00	12.00	12.00
Part day	8.00	8.00	6.50	6.50	6.20	6.50
6 yrs < 13 yrs:						
Full day	14.00	14.00	12.00	12.00	12.00	12.00
Part day	8.00	8.00	6.00	6.00	6.00	6.00

Appendix B. Maximum Reimbursement Rates for Child Care (continued)**NON-CERTIFIED RELATIVE PROVIDERS***

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	12.60	10.80	10.80	10.80	10.80	10.80
Part day	7.20	7.20	5.40	5.40	5.40	5.40
1 yr < 3 yrs:						
Full day	12.60	10.80	10.80	9.25	10.80	10.80
Part day	7.20	7.20	5.40	5.40	5.40	5.40
3 yrs < 6 yrs:						
Full day	11.70	10.80	9.90	10.80	10.80	9.00
Part day	7.20	7.20	4.50	5.40	5.40	5.40
6 yrs < 13 yrs:						
Full day	11.70	10.80	9.00	10.80	10.80	9.90
Part day	7.20	6.30	4.50	5.40	5.40	5.40

Full day = 6 or more hours per day; Part day = less than 6 hours per day.

Actual reimbursement will be provider's actual charges (minus any client designated co-pay), not to exceed maximum reimbursement rates.

*Reimbursement rates for Non-Certified Relative Providers in Pilot sites will be fixed at \$7.00 for Full day and \$4.00 for Part day.

Historical Note

Appendix B adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2).

ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM**R6-5-5001. Definitions**

The following definitions apply in this Article.

1. "ADE" means the Department of Education which administers the CACFP at the state level.
2. "Alternate approval" means a status the ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE.
3. "Child care" means a compensated service that is provided to a child unaccompanied by a parent or guardian during a portion of a 24-hour day; the service includes supervised and planned care, training, recreation, and socialization.
4. "CACFP" means the Child and Adult Care Food Program, funded and administered at the federal level by the Food and Consumer Services, an agency of the U.S. Department of Agriculture.
5. "CCR&R" means child care resource and referral, a service the Department administers under A.R.S. § 41-1967.
6. "Center" has the same meaning ascribed to "child care facility" in A.R.S. § 36-881(3).
7. "Certified" or "licensed" means a provider holds a license as prescribed in A.R.S. § 36-882, or is certified under A.R.S. § 36-895(B) and (C), or is certified under A.R.S. § 36-897.01.
8. "Child with special needs" means a child who:
 - a. Has a physical or mental impairment that substantially limits 1 or more of the child's major life activities;
 - b. Has a record of having a physical or mental impairment that substantially limits 1 or more of the child's major life activities; or
 - c. Is regarded as having such an impairment, whether the child has the impairment or not. The terms used in this subsection have the same meaning as the terms used in the Americans with Disabilities Act (ADA), and the ADA's implementing regulation, 28 CFR 35.104 (July 1, 1995). This regulation, not including any later amendments or editions, is incorporated by reference, and is on file and available for inspection with the Department's Authority Library (1789 West Jefferson, Phoenix, Arizona 85007) and the Secretary of State's Office (1700 West Washington, Phoenix, Arizona 85007).
9. "Client" or "customer" means a person who is requesting information from a CCR&R Contractor.
10. "Compensation" means something given or received in return for child care, such as money, goods, or services.
11. "Contractor" means an agency with which the Department contracts for provision of CCR&R services.
12. "Database" means a computerized collection of facts, figures, and information arranged for ease and speed of retrieval.
13. "Department" means the Department of Economic Security.
14. "Dropped for cause" means a Department of Education Sponsoring Organization has terminated a family child care provider from participation in the CACFP.
15. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR&R database.
16. "Family child care" means child care provided in a provider's own home.
17. "In-home child care" means child care provided in a child's own home.
18. "Information listing" means that a provider listed on the CCR&R has elected to receive training information, and other information about child care issues and activities, but no referrals.
19. "Listing status" means the information option that a provider selects when the provider asks to be listed on the CCR&R; the 2 options are referral listing and information listing.
20. "Personally identifiable information" means any information about a person other than a provider, which, when considered alone, or in combination with other information, identifies or permits another person to readily identify, the person who is the subject of the information, and includes:
 - a. Name, address, and telephone number;

- b. Date of birth or age;
 - c. Physical description;
 - d. School;
 - e. Place of employment; and
 - f. Any unique identifying number, such as driver's license number or license number.
- 21. "Program administrator" means the person who administers the Department's Child Care Program, a unit of the Department.
 - 22. "Provider" or "program" means an adult who, or a facility which, provides child care services.
 - 23. "Provider type" means a category of provider or program such as a center, family child care, and in-home child care.
 - 24. "Referral" means the information listed in R6-5-5005(C), (D), and (E), that a Contractor gives to a customer.
 - 25. "Referral listing" means that a provider listed on the CCR&R has elected to receive referrals, training information, and other information about child care issues and activities.
 - 26. "Regulated" means a provider who is required to meet health and safety standards set by a government agency which may include a federal, state, or tribal government agency, or a sponsoring organization.
 - 27. "Revocation" means the permanent removal of a child care provider's license or certificate by a government agency.
 - 28. "SDA" means a service delivery area, which is a specific geographic area where CCR&R services are offered.
 - 29. "Sponsoring organization" means a public or non-profit private organization that administers the CACFP on behalf of ADE.
 - 30. "Suspension" means that a regulatory agency has temporarily removed a provider's certificate or license.
 - 31. "Unregulated provider" means a family child care provider who is not regulated by any government agency or sponsoring organization.
 - 32. "Work day" means Monday through Friday, excluding Arizona state holidays.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5002. Provider Participation Requirements

- A. To be considered for inclusion in the CCR&R database, a provider shall submit the following information to the Contractor for the provider's SDA:
 - 1. Provider's name;
 - 2. Address;
 - 3. Phone number;
 - 4. Days and times the facility is open;
 - 5. Ages of children accepted;
 - 6. Capacity;
 - 7. Regulatory affiliation, if any;
 - 8. Meals provided to children in care;
 - 9. Training and experience;
 - 10. Accreditation;
 - 11. Fees;
 - 12. School transportation; and
 - 13. The provider's choice of listing status.
- B. In addition to the information listed in subsection (A), an unregulated family child care provider shall complete and submit to the Contractor a notarized, Department-approved form attesting that the provider is not subject to exclusion or

removal from the CCR&R database under any of the grounds specified in A.R.S. § 41-1967(E).

- C. Before adding an unregulated family child care provider to the CCR&R database, a Contractor shall review the provider's self statement described in subsection (B) and include on the database, only those providers who affirm that they are not subject to exclusion or removal under A.R.S. § 41-1967(E).
- D. Before adding a regulated provider to the CCR&R database, the Contractor shall confirm the provider's regulatory affiliation with the appropriate regulatory agency. For the purpose of this subsection, confirmation of the regulatory affiliation is based solely on the accuracy of the information obtained from the regulatory agency or sponsoring organization.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5003. Notification of Changes

- A. A provider listed on the CCR&R database shall notify the Contractor of any changes to the information or statement given pursuant to R6-5-5002(A) or (B).
- B. A provider may change listing status at any time by notifying the Contractor.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5004. Referrals Not Guaranteed

- A. A Contractor shall make referrals to participating providers on a random basis based on families' self reported needs.
- B. A Contractor shall not:
 - 1. Guarantee the number or frequency of referrals to participating providers; or
 - 2. Guarantee that listing on the CCR&R will result in economic benefit or gain to participating providers.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5005. Referral Process

- A. To obtain a referral, a customer shall give the contractor the following information, if available, about the customer's child care needs:
 - 1. Customer name,
 - 2. Address,
 - 3. Phone number,
 - 4. Days and times child care is needed,
 - 5. Preferred type of child care provider,
 - 6. Location where care is needed or preferred, and
 - 7. Age of child.
- B. A Contractor shall give a customer a referral that is consistent with the customer's stated preferences.
 - 1. The Contractor shall not make a referral unless the Contractor can give the customer the names of at least 3 potential providers within the customer's search parameters.
 - 2. If the Contractor cannot name at least 3 potential providers meeting the customer's stated preferences, the Contractor shall ask the customer to expand the search

parameters until the Contractor can name at least 3 potential providers.

C. The Contractor shall provide the customer with provider profile information on each referred provider, including the following:

1. Provider's name;
2. Address or major cross streets;
3. Phone number;
4. Days and hours of operation;
5. Ages of children accepted;
6. Ratio and capacity;
7. Regulatory affiliation, if any;
8. Meal information;
9. Training and experience;
10. Accreditation;
11. Fees and available subsidies;
12. School transportation.

D. As part of a referral, a Contractor shall give each customer a disclaimer statement with the following information:

1. That the Contractor selects providers based on the customer's stated preferences;
2. That the Contractor provides referrals and does not recommend, endorse, or guarantee any particular child care provider;
3. That the Contractor does not regulate, monitor, or verify information supplied by a provider; and
4. That a child's parent or guardian is solely responsible for choosing an appropriate child care provider to meet a family's needs.

E. As part of a referral, a Contractor shall provide the customer with the following Department-approved educational information:

1. A list of criteria to consider when selecting quality child care;
2. A description of the types of child care providers in Arizona;
3. A description of CCR&R services and a list of office locations and phone numbers statewide; and
4. An explanation of the process for filing a child care related complaint.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements

A. Monitoring and Investigation: Neither the Department nor its Contractors monitors or investigates the activities of providers, or investigates complaints about providers, except as otherwise prescribed by law for family child care providers.

B. Regulated Providers: Upon receipt of a complaint about a regulated provider, a Contractor shall refer the complainant to the appropriate regulatory agency, law enforcement agency, or Child Protective Services.

C. Unregulated Providers: The provisions in this subsection govern complaints about unregulated providers.

1. Any person may complain about an unregulated family child care provider on the database by notifying a Contractor. Upon receipt of a complaint on an unregulated family child care provider, a Contractor shall:
 - a. Refer the complainant to the appropriate investigative agency (law enforcement or child protective services), if the issue raised in the complaint is suspected child abuse or neglect;

- b. Refer the complainant to the Department of Health Services if the issue raised in the complaint is that the provider is alleged to be caring for more children than the law allows; or
- c. Take the complaint if it raises an issue other than those described in subsections (C)(1)(a) or (b).

2. If the Contractor takes the complaint as prescribed in subsection (C)(1)(c), the Contractor shall obtain and record, on a Department approved form, the following information, if available:

- a. Provider name and address;
- b. Summary of the complaint, including date and time of incident;
- c. Name, address, and phone number of the person making complaint, if the complainant does not choose to be anonymous; and
- d. If applicable, witness information, such as name, address, and phone number.

3. The person recording the information shall sign and date the form.

4. After redacting personally identifiable information, the Contractor shall send the complaint form to the provider for response.

5. The provider shall respond to the complaint by completing the provider response portion of the complaint form within 30 days of the complaint mailing date;

6. The Contractor shall allow the public to inspect the complaint, and the provider's response, if given, with all personally identifiable information redacted. The Contractor shall make complaints available for public inspection, at the Contractor's office, after the 30-day provider response period has expired.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5007. Provider Listing Status

A. Regulated Providers:

1. When the Department learns that a regulatory agency has suspended a regulated provider's license, certificate, or alternate approval, the Department shall direct a Contractor to change the provider's listing status from referral listing to information listing, using the process prescribed in R6-5-5009.
2. If a Contractor has changed a provider to information listing status as prescribed in subsection (A)(1), the Department shall direct the Contractor to return the provider to referral listing status when the regulatory agency removes the provider's suspension status.
3. The Department shall notify the provider in writing when the Department returns the provider to referral status. The Department shall send the notice within 7 work days of the change in status, and shall include the effective date of the change.

B. Unregulated Providers:

1. When the Department receives a complaint or is notified that an unregulated provider or program may have failed or may be unable to meet the needs of families due to 1 of the following circumstances, the Department shall direct a Contractor to change an unregulated provider's listing status from referral listing to information listing using the process prescribed in R6-5-5009:

- a. A child has allegedly been abused, neglected, exploited, or abandoned while in the unregulated provider's care;
 - b. An unregulated provider has allegedly been involved in activities or circumstances which may threaten the health, safety, or emotional well-being of children, including, but not limited to, acts of physical violence, domestic disputes, or incidents involving deadly weapons or dangerous or narcotic drugs; or
 - c. An unregulated provider has allegedly violated state licensing requirements by providing care to more than 4 children at any 1 time for compensation.
2. If a Contractor has changed a provider to information listing status, as prescribed in subsection (B)(1), the Department shall direct the Contractor to return the provider to referral listing status when 1 of the following occurs:
- a. Child Protective Services or a law enforcement agency determines that the allegation cannot be substantiated;
 - b. Child Protective Services or a law enforcement agency determines that the threat to children has been eliminated; or
 - c. The Department of Health Services determines that the provider may continue child care activities without obtaining a certificate or license.
3. As used in subsection (B)(2), substantiation by a law enforcement agency means that law enforcement has referred a case to a prosecutorial agency with a recommendation to file charges.
4. The Department shall notify the provider in writing when the provider is returned to referral status. The Department shall send the notice within 7 work days of the change in status, and shall include the effective date of the change.

Historical Note

Adopted effective August 11, 1976 (Supp. 76-4). Section repealed effective November 8, 1982 (Supp. 82-6). New Section adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5008. Provider Exclusion or Removal

- A.** The Department may direct a Contractor to exclude or remove a provider from the database according to the process prescribed in R6-5-5009, for the following reasons:
 - 1. The provider fails or refuses to provide information as requested by the Department or a Contractor;
 - 2. A regulatory agency verifies that the provider's license, certificate, or alternate approval has been revoked, terminated, or dropped for cause;
 - 3. The Department learns that the information in the written, sworn, and notarized statement submitted by the provider pursuant to R6-5-5002(B) is false;
 - 4. The provider is subject to removal for any reason listed in A.R.S. § 41-1967(E); or,
 - 5. The provider fails to comply with these rules.
- B.** A Contractor may summarily and without notice remove a provider from the CCR&R database for the following reasons:
 - 1. The Contractor is unable to contact the provider because:
 - a. The provider's phone is disconnected;
 - b. The provider is no longer at the last known address and has given no forwarding address; or
 - c. The provider has died; or
 - 2. The provider requests removal.
- C.** A provider removed under subsection (B) may request reinstatement by calling the Contractor for the provider's SDA and providing current information.
- D.** Upon receipt of a request for reinstatement, the Contractor shall update the information listed in R6-5-5002 and, if applicable, confirm that the provider has submitted information requested by the Department or Contractor.
- E.** The Contractor shall reinstate the provider unless there are grounds for removal as prescribed in subsections (A)(1) through (5).

Historical Note

Adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5009. Administrative Review Process

- A.** When the Department receives information indicating that the Department may need to change the provider's listing status or remove or exclude a provider, the Department Program Administrator or designee shall review the information and decide whether grounds exist as listed in R6-5-5007 or R6-5-5008(A).
- B.** If the Department decides to change the provider's listing status or to remove or exclude a provider, the Department shall:
 - 1. Notify the Contractor to change the listing status or to remove or exclude the provider; and
 - 2. Within 7 work days of the effective date of the change of listing status, removal or exclusion, send the provider written notice of the action taken.
- C.** The notice shall include the following information:
 - 1. The effective date of the change in listing status or the removal or exclusion;
 - 2. The reason for the change in listing status or the removal or exclusion;
 - 3. The statutory provision requiring the provider's change in listing status or the removal or exclusion;
 - 4. An explanation of the provider's right to an administrative review; and,
 - 5. A statement explaining where the provider may file a written request for an administrative review and the time period for doing so.
- D.** The Department shall mail the notice to the provider's last known address. The mailing date is presumed to be the date appearing on the notice.
- E.** A provider may request an administrative review by filing a written request for review with the Department, within 15 calendar days after the mailing date of the Department's notice.
- F.** The provider shall mail the written request for administrative review to:

Department of Economic Security
Child Care Administration
Program Administrator
P.O. Box 6123 S.C. 801A
Phoenix, Arizona 85005
- G.** In the written request, the provider shall include the reason for requesting an administrative review and any documentation supporting the reinstatement request.
- H.** A request for an administrative review is timely if:
 - 1. The Department receives it within the 15-day appeal period prescribed in subsection (E); or
 - 2. The envelope in which the request was mailed is postmarked or postage-meter marked within the 15 day period prescribed in subsection (E).
- I.** The Program Administrator or designee shall review the Department's decision and all documentation submitted by the provider.
- J.** The Program Administrator or designee shall notify the provider and the Contractor of the results of the administrative review within 15 work days from the date the Department receives the request for review.

1. The decision shall be in writing and mailed to the provider's last known address. The date on the decision is presumed to be the mailing date.
 2. The decision shall include information about the provider's right to further appeal.
- K.** The provider may appeal the Department's decision as prescribed in R6-5-5010.

Historical Note

Adopted effective November 19, 1996 (Supp. 96-4).

R6-5-5010. Administrative Appeal Process

- A.** A provider may appeal the Department administrative review decision as prescribed in 6 A.A.C. 5, Article 75 by filing a request for an appeal with the Department within 15 days after the mailing date of the Department's administrative review decision described in R6-5-5009(J).
- B.** A provider shall mail the written request for an appeal to:
- Department of Economic Security
Child Care Administration
Program Administrator
P.O. Box 6123 S.C. 801A
Phoenix, Arizona 85005
- C.** In the written request, the provider shall include the reason for requesting an appeal and any documentation supporting the request.
- D.** A request for an appeal is timely if:
1. The Department receives it within the 15-day appeal period prescribed in subsection (A); or
 2. The envelope in which the request was mailed is post-marked or postage-meter marked within the 15-day period prescribed in subsection (A).

Historical Note

Adopted effective November 19, 1996 (Supp. 96-4).

Amended effective June 4, 1998 (Supp. 98-2).

ARTICLE 51. CHILD DAY CARE SERVICES**R6-5-5101. Definitions**

The following definitions shall apply to this Article unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.
2. "Applicant" means the person who is requesting day care services. This person is either the parent, legal guardian or legal custodian of the child for whom day care services are being requested.
3. "Authorized representative" means a person authorized in writing to make application for the applicant.
4. "Child Day Care Program" means a program of services providing care and supervision, recreation and socialization.
5. "Child, youth or juvenile" means an individual who is under the age of 18.
6. "Client" means a person who, as part of a family, receives services from the Department, with the focus on the protection and well-being of the child(ren). For day care, this is the person who has applied for and has met the eligibility criteria for Day Care Services and for whom such services have been authorized.
7. "Denial" means a formal decision of ineligibility on an application.
8. "Dependent" means a person under the age of 18 who resides with the applicant and whom the applicant has the legal financial obligation to support.
9. "Department" means the Arizona Department of Economic Security.
10. "Eligibility" means the requirements an individual or family must meet to receive Day Care Services.

11. "Family size" means the applicant, responsible person and their dependents who reside in the same household. A man/woman legally married, not living in the same household but with the intention of remaining a family, shall be included in the family size. When foster parents are applying for day care services for non-foster children, foster children shall not be considered a member of the foster parent's family.
12. "Minor parent" means that a parent under the age of 18 living with his/her own parents shall be considered the responsible person for his/her children. The parents of the minor parents shall not be considered the responsible person(s) for the child(ren) of the minor parent.
13. "Negative action" means the reduction, termination of the case, or a change to a higher fee level.
14. "New income source" means any additional or increase of income which has been reported to the worker prior to the individual actually receiving the monies.
15. "Parent" means the biological parent whose name appears on the birth certificate or who has legally acknowledged or had an adjudication of paternity, or the adoptive parent of the child.
16. "Positive action" means the approval, increase or resumption of service such as adding a service or decreasing a fee level.
17. "Responsible person(s)" means one or more persons, residing in the same household who have the legal responsibility to financially support:
 - a. One or more of the children for whom day care services are being authorized, or
 - b. The client who is applying for day care services.
18. "Work" means the performance of duties on a regular basis for wages or salary.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5101 repealed, new Section R6-5-5101 adopted effective September 30, 1977 (Supp. 77-5). Former Section R6-5-5101 repealed, new Section R6-5-5101 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5102. Client rights

- A.** The Department shall mail or deliver written notice to the individual applying for or currently receiving services as follows:
1. On a decision about an application, within 30 calendar days of the date that the Department received the completed application.
 2. On a positive action, at the same time or prior to the date the action will occur.
 3. On a negative action, at least 15 calendar days in advance of the date the action will occur.
 4. On changes in law or policy which affect entire classes or groups and deal with issues not related to individual questions of fact, notice of such action shall be issued by the Department 15 calendar days in advance of the effective date of the action whenever possible.
- B.** It shall not be necessary for the Department to give notice on a negative action when:
1. A service authorized for a specified time is terminated and the individual was informed in writing of the termination date when services were initiated.
 2. The applicant, client, or child is deceased.
 3. The individual has signed a withdrawal or termination of services form.
 4. There is a loss of contact with the client and/or mail addressed to the last known address has been returned.

- C. Written notice will include a statement of the action to be taken, the reasons for the intended action citing the specific rule supporting the action, and an explanation of the individual's rights regarding a request for a fair hearing.
- D. Service shall commence or arrangements shall be made for delivery of service within 15 calendar days of the date of notification of eligibility. If services are not available at the time of notification of eligibility, written notice shall be mailed or delivered as to why services will be delayed.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5102 repealed, new Section R6-5-5102 adopted effective September 30, 1977 (Supp. 77-5). Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5102 repealed, new Section R6-5-5102 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5103. Client responsibilities

- A. An applicant for services in the income eligible category must:
 - 1. Sign an application to receive services or have someone who has written authorization to act in his or her behalf, sign the application/reapplication.
 - 2. Provide complete and truthful information concerning all financial and personal circumstances, as there is a criminal penalty for fraud.
 - 3. Cooperate in order to determine and redetermine eligibility by providing information and verification as required by the Department. The primary responsibility lies with the client to provide information and/or verification as required.
- B. An applicant or client must report changes in financial and personal circumstances within five working days of occurrence. This includes changes of address, family composition, name and income.
- C. A reapplication to reassess programmatic and financial eligibility is required at least every six months.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5103 repealed, new Section R6-5-5103 adopted effective September 30, 1977 (Supp. 77-5). Former Section R6-5-5103 repealed, new Section R6-5-5103 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5104. Eligibility for services

- A. All individuals must currently reside in the state of Arizona. In order to receive services, individuals must be physically present within the state of Arizona, except in the case where a child is out of the state but is a ward of an Arizona court or in custody of the Department.
- B. Day Care Services shall only be authorized for children under the age of 13.
- C. The Department may request the applicant to provide verification of their income, employment, training or school schedule and medical needs.
- D. Programmatic eligibility
 - 1. The client and the responsible person are not available to meet the child's needs for a part of a 24-hour day due to one or more of the following reasons:
 - a. Employed full- or part-time.
 - b. Self employed.
 - c. Participation in training or in high school, technical school or college.
 - d. Job search.
 - e. Incapable or unavailable to provide care.

- f. Foster care children, or child protective service children for whom day care, as part of the case plan, has been prescribed.

E. Financial eligibility

- 1. Determination of financial eligibility is based on the gross monthly family income of the applicant/client.
 - a. The income level of each client shall be based upon the family size and the gross monthly income of the family according to State Median Income. Day Care Services shall be determined by the appropriation approved by the Legislature.
The median income chart is specified in the Title XX, Social Services Plan, R6-5-2004, Exhibit I.
- 2. The gross monthly income of a family shall include:
 - a. Money, wages or salary -- total earnings received for work performed as an employee, including wages, salary, armed forces pay (i.e., base pay, dependency allotments, basic allowances for quarters), commissions, tips, overtime, work study program, teaching or research assistant, piece-rate payments, and cash bonuses earned, before deductions are made for taxes, bonds, pensions, union dues, garnishments and similar purposes.
 - b. Net income from non-farm self-employment -- gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods and services purchased or produced, rent, heat, light, power, depreciation charges, wages, and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
 - c. Net income from farm self-employment -- gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter, or tenant farmer. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include costs of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
 - d. Social Security includes Social Security benefits and "survivors" benefits, and permanent disability insurance payments made by the Social Security Administration, prior to deductions for medical insurance.
 - e. Railroad retirement insurance checks.
 - f. Dividends include interest on savings or bonds, income from estates or trusts, net rental income or royalties, including dividends from stockholding or membership in associations, periodic receipts from estates or trust funds, net income from rental of a

- house, store, or other property to others (minus deductions for costs for repairs, utilities paid, maintenance insurance and mortgage payments prorated on a monthly basis), receipts from boarders or lodgers (net income received from furnishing room and board shall be one third of the total amount charged), and net royalties. Such income must be considered when the income averages one dollar or more per month. Interest on Series H United States Government Savings bonds mailed every six months to the bond holder is considered income and shall be prorated on a monthly basis.
- g. Mortgage payments received shall be prorated on a monthly basis.
 - h. Public assistance payments which include Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), State Supplementary Payments (SSP), General Assistance (GA), Bureau of Indian Affairs General Assistance (BIAGA), and Tuberculosis Control (TC).
 - i. Pensions and annuities includes pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, or through an individual retirement account, either directly or through an insurance company. If payments are made in periodic payments from annuities of insurance, the payments shall be prorated on a monthly basis.
Monies contributed by the applicant to a retirement fund withdrawn prior to actual retirement shall be counted as lump sum payment. One time lump sum payments shall be excluded.
 - j. Unemployment compensation means compensation received from government unemployment insurance agencies or private companies during periods of unemployment, and any strike benefits received from union funds.
 - k. Worker's compensation means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person.
 - l. Alimony or spousal maintenance shall be counted the month received.
 - m. Child support shall be counted the month received.
 - n. Veterans' pensions means money paid periodically by the Veterans Administration to disabled members of the Armed Forces or to a survivor of deceased veterans, subsistence allowance paid to veterans for education and on-the-job training, as well as so-called refunds paid to ex-servicemen as GI insurance premiums. Monies received shall be prorated on a monthly basis.
 - o. Assistance received on a monthly basis from relatives, other individuals, and private organizations, as a direct payment in the form of money.
 - p. Training and education grants, allowances, payments and subsistence allowances for education and on-the-job training, which are available to be used for current living expenses shall be counted as income. Exemptions to the countable income include, but are not limited to: tuition, books and supplies. The countable income shall be calculated by subtracting the areas which are not counted as living expenses from the actual grant. The monies remaining shall be prorated on a monthly basis.
- 3. Exclusions from gross monthly income are:
 - a. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims.
 - b. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act.
 - c. Money or capital gains received as a lump sum, from sale of property, such as stocks, bonds, or a car (unless the person was engaged in the business of selling such property, in which case the net proceeds would be counted as income from self-employment).
 - d. Withdrawals of bank deposits.
 - e. Money borrowed.
 - f. Tax refunds.
 - g. One time lump sum awards or benefits, which include, but are not limited to:
 - i. Inheritances (Note: Interest or dividends earned on an inheritance are counted as income.)
 - ii. Insurance awards (Note: Interest or dividends earned on an insurance award are counted as income.)
 - iii. Civil suits (Note: Interest or dividends earned on settlements of civil suits are counted as income.)
 - iv. Monies contributed by a client to a retirement fund withdrawn prior to actual retirement.
 - v. Retroactive Public Assistance payments e.g. AFDC, G.A., T.C., BIAGA, SSI, V.A., etc.
 - h. The value of U.S. Department of Agriculture (USDA) Food Stamps.
 - i. The value of USDA donated food.
 - j. The value of supplemental food assistance under the Child Nutrition Act of 1966 and special food service program for children under the National School Lunch Act, as amended, including Women, Infant and Children Program (WIC), Child Care Food Program (C.C.F.P.), School Lunch Program, etc.
 - k. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (e.g. Navajo/Hopi Relocation Act).
 - l. Earnings of an unemancipated child, under the age of 18 while attending high school or other training program.
 - m. Home produce utilized for household consumption.
 - n. Work Incentive Demonstration Project (WIDP) and Job Training Partnership Act (JTPA) training expenses (other than subsistence) paid directly to the client.
 - o. Interest on Series E United States Government Savings bonds.
 - p. Foster care payments received for care of foster children.
 - 4. Computation of income.
 - a. All income of all family members, other than that which is excluded as specified in this Article, is considered in the determination of eligibility. Each source of income shall be computed to a monthly figure separately with the appropriate method used for computation. After the monthly income from each source is computed, the amounts from each source will be added together to obtain the total monthly income.

- b. Income received less often than on a monthly basis (including irregular periods) must be converted to a monthly figure.
 - i. The number of months which the income covers shall be determined, then prorated by the number of months the income covers.
 - ii. If the income is received on or after the date of application, a monthly share of income shall be considered beginning with its earliest possible effective date and for a number of months equal to the number of months which the income covers. If the income is received prior to the date of application, the number of months for which the income is to be considered shall be equal to the number of months of coverage remaining.
- c. All income shall be converted to a monthly figure with the following exception: When a new income source that will be received monthly, weekly, bi-weekly or semi-monthly occurs, the client shall be informed that in 15 calendar days from receipt of their first payment which includes the additional monies, a higher fee level or ineligibility will be the result of the additional income. Until the monies are available to the client, a new fee level or ineligibility shall not be assessed to the client. When a client has already received the payment which includes the new income source, a 15-day timely notice shall be sent.
- d. Income received more often than monthly, for a period covering less than a month, will be converted to a monthly amount by one of the methods listed below.
 - i. If income does not vary and is received monthly, weekly, bi-weekly, or semi-weekly, the conversion to a monthly amount will be obtained by multiplying the pay period amount by:
 - (1) 1, if monthly;
 - (2) 4.3, if weekly;
 - (3) 2.15, if bi-weekly; or
 - (4) 2, if semi-monthly
 - (5) This amount will be applied as income on an ongoing monthly basis until there is a change in the income.
 - ii. If exact figures are not available such as in situations involving tips, payment by piece work or fluctuating amounts, an approximate figure shall be accepted.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5104 repealed, new Section R6-5-5104 adopted effective September 30, 1977 (Supp. 77-5).
 Amended effective April 25, 1978 (Supp. 78-2).
 Amended effective March 26, 1979 (Supp. 79-2).
 Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5104 repealed, new Section R6-5-5104 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5105. Day care providers

The Department shall purchase day care only from:

1. Licensed day care centers with whom the Department has a contract or an agreement; or
2. Certified family day care homes (R6-5-Article 52).
3. Certified in-home care providers (R6-5-Article 52).

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5105 repealed, new Section R6-5-5105 adopted effective September 30, 1977 (Supp. 77-5).
 Amended effective April 25, 1978 (Supp. 78-2).
 Amended paragraph (3) effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5105 repealed, new Section R6-5-5105 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5106. Exclusions for programmatic eligibility

Day care funds may not be used to purchase:

1. Educational services offered by the public school system; or
2. Rehabilitative or day treatment services; or
3. Study time for clients attending school or training; or
4. Time for people to picket due to a strike.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5106 repealed, new Section R6-5-5106 adopted effective September 30, 1977 (Supp. 77-5).
 Former Section R6-5-5106 repealed, new Section R6-5-5106 adopted effective June 17, 1985 (Supp. 85-3).

R6-5-5107. Criteria for denying or closing services

An application may be denied or service(s) may be closed because the applicant:

1. Is not financially eligible according to R6-5-5104(E); or
2. Is not programmatically eligible according to R6-5-5104(D); or
3. Is a member of a family which already has an active case or pending application on file for the particular service; or
4. Has not provided the requested information and/or verification necessary for a determination or redetermination of eligibility; or
5. Cannot be located or mail addressed to last known address has been returned; or
6. Is deceased, incarcerated, or confined to an institution; or
7. Has requested that the application or service(s) delivery be terminated.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5107 repealed, new Section R6-5-5107 adopted effective September 30, 1977 (Supp. 77-5).
 Amended effective March 17, 1981 (Supp. 81-2). Former Section R6-5-5107 repealed, new Section R6-5-5107 adopted effective June 17, 1985 (Supp. 85-3).

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

R6-5-5201. Definitions

The following definitions apply in this Article:

1. "Abandonment" has the meaning ascribed to "abandoned" in A.R.S. § 8-201 (1).
2. "Abuse" has the meaning ascribed in A.R.S. § 8-201 (2).
3. "Age" means years of a person's lifetime when used in reference to a number, unless the term "months" is used.
4. "Adult" means a person age 18 or older.
5. "Applicant" means a person who submits a written application to the Department to become certified as a child care provider.
6. "Backup provider" means an adult who, or an entity that, provides child care when a provider is not available.
7. "CACFP" means the Child and Adult Care Food Program.

8. "Certificate" means a document the Department issues to a provider as evidence that the provider has met the child care standards of this Article.
9. "Child" means a person younger than age 18.
10. "Child care" means the compensated care, supervision, recreation, socialization, guidance, and protection of a child who is unaccompanied by a parent.
11. "Child care personnel" means all adults residing in a home facility, an in-home provider, and any backup provider.
12. "Child care registration agreement" means a written contract between a provider and the Department; that establishes the rights and duties of the provider and the Department for provision of child care.
13. "Child care specialist" means a Department child care eligibility and/or certification staff person.
14. "CHILDS" means the Children's Information Library and Data Source, which is a comprehensive, automated system to support child welfare policies and procedures, and includes information on investigations, ongoing case management, and payments.
15. "CHILDS Central Registry" means the Child Protective Services Central Registry, a confidential, computerized database within CHILDS, which the Department maintains according to A.R.S. § 8-804.
16. "Child with special needs" means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child who has a physical or mental impairment that substantially limits 1 or more major life activities; has a record of having a physical or mental impairment that substantially limits 1 or more of the child's major life activities; or who is regarded as having an impairment, regardless of whether the child has the impairment.
17. "Client" means a person who applies for and meets the eligibility criteria for a child care service program administered by the Department.
18. "Compensation" means something given or received, such as money, goods, or services, as payment for child care services.
19. "Corporal punishment" means any act that is administered as a form of discipline and that either is intended to cause bodily pain, or may result in physical damage or injury.
20. "CPS" means Child Protective Services, a Department administration that operates a program to investigate allegations of child maltreatment and provide protective services.
21. "Department" means the Arizona Department of Economic Security.
22. "Developmentally appropriate" means an action that takes into account:
 - a. A child's age and family background;
 - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
 - c. The individual child's pattern and timing of growth, personality, and learning style.
23. "DHS" means the Arizona Department of Health Services.
24. "Direct supervision" means within sight and sound.
25. "Exploitation" means an act of taking advantage of, or making use of a child selfishly, unethically, or unjustly for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child pan-handle, steal, or perform other illegal activities.
26. "Evening care" means child care provided at any time between 6:30 p.m. and midnight.
27. "Heating device" means an instrument designed to produce heat for a room or inside area and includes a non-electric stove, fireplace, freestanding stove, or space heater.
28. "Home facility" means a provider's residence that the Department has certified as a location where child care services may be provided.
29. "Household member" means a person who does not provide child care services and who resides in the home facility of a provider for 21 consecutive days or longer or who resides periodically throughout the year for a total of at least 21 days.
30. "Infant" means:
 - a. A child who is younger than 12 months old; and
 - b. A child who is younger than 18 months old and not walking.
31. "In-home provider" means a provider who cares for a child in the child's home.
32. "Maltreatment" means abuse, neglect, exploitation, or abandonment of a child.
33. "Medication" means any prescribed or over-the-counter drug or medicine.
34. "Mechanical restraint" means a device to restrict a child's movement.
35. "Neglect" has the same meaning ascribed in A.R.S. § 8-201 (21).
36. "Night-time care" means child care provided at any time between midnight and 6 a.m.
37. "Non-parent relative" means a caretaker relative who exercises responsibility for the day-to day physical care, guidance, and support of a child who physically resides with the relative and who is by affinity, consanguinity, or court decree, a grandparent, great grandparent, sibling of the whole or half-blood, stepbrother, stepsister, aunt, uncle, great aunt, great uncle, or 1st cousin of the child.
38. "Parent" means the biological or adoptive parent of a child, a court-appointed guardian, or a non-parent relative.
39. "Provider" means an adult who is not the parent or guardian of a child needing care, and to whom the Department has issued a certificate, and includes a backup provider who performs the provider's duties when the provider is unavailable.
40. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement.
41. "Safeguard" means to use reasonable efforts and developmentally appropriate measures to eliminate the risk of harm to a child in care and ensure that a child in care will not be harmed by a particular object, substance, or activity. Safeguarding may include:
 - a. Locking up a particular substance or item;
 - b. Putting a substance or item beyond the reach of a child who is not mobile;
 - c. Erecting a barrier that prevents a child from reaching a particular place, item, or substance;
 - d. Mandating the use of a protective safety device; or
 - e. Providing direct supervision.
42. "Sanitize" means treatment by a heating or chemical process that reduces the bacterial count, including pathogens, to a safe level.
43. "Time out" means removing a child from a situation by directing the child to remain in a specific chair or place

identified as the time out place, for no more than 1 minute for each year of a child's age, but no more than 10 minutes.

44. "Undue hardship" means significant difficulty or substantial expense concerning the operation of a provider's program. In this subsection, "significant" and "substantial" are measured relative to the level of net income the provider earns from child care services.
45. "Unusual incident" means any accident, injury, behavior problem, or other extraordinary situation involving a provider or a child in care, including suspected child maltreatment.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5202. Initial Application for Certification

- A. To become a certified child care provider, an applicant shall comply with all requirements of this Article and other applicable requirements of federal, state, or local law.
- B. An applicant shall be at least age 18.
- C. An applicant shall submit a complete, signed application form to the Department.
- D. An applicant shall designate 1 or more backup providers from the following list:
 1. An individual who is age 18 or older and who satisfies the requirements for backup providers outlined in this Article;
 2. A DHS-licensed child care center;
 3. A DHS-certified child care group home; or
 4. A DES-certified family child care home.
- E. An applicant shall participate in any orientation and training and shall cooperate in conducting any pre-certification interviews and inspections the Department may require.
- F. An applicant shall give the Department the names of 3 references who:
 1. Have known the applicant at least 1 year;
 2. Are unrelated by blood or marriage to the applicant, and
 3. Can furnish information regarding the applicant's character and ability to care for a child.
- G. An applicant and any designated individual backup provider shall furnish a self-statement of physical and mental health on a form provided by the Department.
- H. An applicant and each designated individual backup provider shall have the physical, mental, and emotional health necessary to perform the duties and meet the responsibilities established by this Article. If the Department has questions about the applicant's health that the applicant cannot satisfactorily answer or explain, the applicant, upon request by the Department, shall submit to a physical or psychological examination by a licensed physician, psychologist, or psychiatrist, and shall provide the Department with a professional opinion addressing the Department's questions. The applicant shall bear the cost of any professional examinations that the Department needs to determine whether the individual is qualified.
- I. The Department may require an applicant to furnish at least the following information about the applicant, the applicant's spouse, members of the applicant's household, children residing outside of the applicant's home, and the individual backup provider:
 1. Name;
 2. Current address;
 3. Telephone number;
 4. Date of birth;
 5. Social security number;
 6. Maiden name, aliases, and nicknames;
 7. Relationship to the applicant or backup provider;
 8. Marital status and marital history;
 9. Educational background;
 10. Ethnicity;
 11. Gender;
 12. Birthplace;
 13. Physical characteristics; and
 14. Citizenship status.
- J. Child care personnel shall submit the notarized criminal history certification form required by A.R.S. § 41-1964, and disclose whether they have committed any acts of child maltreatment or have been the subject of a Child Protective Service investigation.
- K. On a Department form, an applicant, all adult household members, and all individual backup providers shall provide employment histories for the 5-year period immediately preceding the application date, beginning with the individual's present or most recent job.
- L. An applicant shall furnish proof that the applicant, the individual backup provider, and members of the applicant's household who are age 13 or younger are immune from measles, rubella, diphtheria, tetanus, pertussis, polio, and any other diseases for which routine immunizations are readily and safely available.
 1. The Department may waive the requirements of this subsection for a household member if the applicant will be certified as an in-home provider only and submits an affidavit attesting that household members will not be present when child care services are provided.
 2. The Department shall waive the requirements of this subsection if the applicant:
 - a. Submits an affidavit stating that household members are being raised in a religion whose teachings oppose immunization; and
 - b. Affirms, in writing, that families will be notified of the religious exemption before child care services are provided.
- M. An applicant shall submit evidence of current freedom from pulmonary tuberculosis for the applicant, all household members, and all individual backup providers. If the application is approved, this evidence shall be submitted each succeeding calendar year.
 1. Evidence required under this subsection is limited to:
 - a. A report of a negative Mantoux skin test performed within (3) months of the date or anniversary date of initial certification.
 - b. A physician's written statement based on an examination performed within 3 months of the date or anniversary date of initial certification.
 2. The Department shall waive the requirements of this subsection for household members if the applicant will be certified as an in-home provider only and submits an affidavit that household members will not be present when child care services are provided.
- N. An applicant shall provide a statement of services on a Department form. The statement shall describe:
 1. The home at which services will be provided, location, and hours of operation;
 2. The applicant's daily rates and fees;
 3. The ages of children the applicant will accept;
 4. The equipment, materials, daily activities, and play areas available to children in care;
 5. Any special child care skills, knowledge, or training the applicant has; and

6. The behavior, guidance, and discipline methods the applicant uses.
- O. During an interview with the child care specialist, an applicant shall complete a Department questionnaire describing:
 1. The applicant's child rearing philosophy;
 2. The home environment, including intra-family relationships and attitudes toward child care;
 3. The parenting and discipline methods employed by the applicant and the applicant's parents; and
 4. The applicant's child care training and experience.
- P. Upon Department request, an applicant, all members of the applicant's household, and all individual backup providers shall comply with any additional requirements and requests for interviews, inspections, or information necessary to determine the applicant's fitness to serve as a certified child care provider.
- Q. A complete application package consists of an applicant's completed application form and evidence that the applicant, all members of the applicant's household, and all individual backup providers have met all requirements and submitted all information and documentation listed in this Section.
- R. The Department shall send an applicant a notice of administrative completeness or deficiency, as described in A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package. The Department shall send the notice after receiving the application and before expiration of the administrative review time frame described in R6-5-5204. If the applicant does not supply the missing information listed in the notice, the Department may close the file.
- S. An applicant whose file is closed may reapply for certification.
- T. After an applicant submits a complete application for initial certification, the Department shall inspect the applicant's home to determine whether the home meets the regulations of this Article.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5203. Initial Certification: The Home Facility

A provider's home facility shall meet the requirements of this Section.

1. A provider shall maintain the indoor and outdoor premises of the home facility in a safe and sanitary condition, free from hazards and vermin, and in good repair. A mobile home shall have skirting to ensure that a child in care cannot go beneath the mobile home.
2. Any area to be occupied by a child in care shall have heat, light, ventilation, and screening. The provider shall maintain the home facility between 68° and 85° F.
3. A provider shall vent and safeguard all heating devices to protect each child from burns and harmful fumes.
4. A provider shall safeguard all potentially dangerous objects from children, including:
 - a. Household and automotive tools;
 - b. Sharp objects, such as knives, glass objects, and pieces of metal;
 - c. Fireplace tools, butane lighters and igniters, and matches;
 - d. Machinery;
 - e. Electrical boxes;
 - f. Electrical outlets;
 - g. Electrical wires; and
 - h. Chemicals, cleaners, and toxic substances.
5. A provider shall store firearms and ammunition separately from one another, under lock and key or combination lock.
6. A home facility shall have adequate space and equipment to accommodate each child in care, and other household members who are in the home facility at the same time as children in care. In this subsection, "adequate" means sufficient space and equipment to:
 - a. Permit all persons in the dwelling to have safe freedom of movement;
 - b. Permit children in care to be seated together for meals and snacks; and
 - c. Permit all children in care to be engaged in developmentally appropriate activities at the same time and in a room where the provider can keep all children within sight.
7. A provider shall keep outside play areas clean and safe and shall fence the play area if there are conditions that may pose a danger to any child playing outside. The fence shall be at least 4 feet high and free of hazards, including splinters and protruding nails or wires. The fence shall have only self-closing, self-latching, lockable gates.
8. A home facility shall have the following equipment:
 - a. A charged, readily accessible, operable, multi-purpose (ABC class) fire extinguisher that the applicant knows how to operate;
 - b. At least 1 UL-approved, working smoke detector, properly mounted on each level of the dwelling;
 - c. At least 2 usable outdoor exits;
 - d. A posted written plan or diagram for emergency evacuation;
 - e. A working telephone or other two-way communication device acceptable to the Department; and
 - f. An easily accessible life-saving device if the home facility has a pool or other body of water more than 12 inches deep. A "life-saving device" means a ring buoy with at least 25 feet of 1/2-inch rope attached or a shepherd's crook.
9. If a home facility has a swimming pool or other body of water more than 12 inches deep, the pool or body of water shall be enclosed by a permanent fence that separates it from all other outdoor areas and from doors and windows into the home facility. The fence shall be at least 5 feet high and shall have only self-closing, self-latching, lockable gates. Open spaces between upright or parallel posts and poles on fences and gates shall be no more than 4 inches apart. When the pool or body of water is not in use, the provider shall lock the gates.
10. A provider shall enclose spas and hot tubs with fencing as described in subsection (9), or with a hard, locked cover that prevents access and can support at least 100 pounds.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective March 5, 1979 (Supp. 79-2). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5204. Initial Certification: Department Responsibilities

- A. Before issuing a certificate, the Department shall:
 1. Conduct at least 1 face-to-face interview with an applicant;
 2. Contact any other person necessary to determine an applicant's fitness to be a certified provider;

3. Ensure that an applicant and all individual backup providers have complied with and satisfy the requirements of R6-5-5202;
 4. Inspect the home where an applicant will provide child care, unless it is the child's own home, and ensure that it meets the requirements of R6-5-5203;
 5. Conduct a CHILDS Central Registry check for:
 - a. An applicant;
 - b. The applicant's household members;
 - c. The applicant's emancipated children who live outside the applicant's home, if any; and
 - d. Any individual backup provider.
 6. Find that an applicant has the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article.
- B.** The Department shall objectively determine whether to certify an applicant based on the applicant's entire application package, and the information the Department has acquired during the course of the application process.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5205. Certification Time-frames

For the purpose of A.R.S. § 41-1073, the Department established the following certification time-frames:

1. Administrative completeness review time-frame: 60 days,
2. Substantive review time-frame: 30 days, and
3. Overall time-frame: 90 days.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5205 renumbered to R6-5-5206 and new Section adopted by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5206. Certificates: Issuance; Non-transferability

- A.** A certificate is valid for three years from the date of issuance. The Department may revoke a certificate before expiration as provided in this Article and by law.
- B.** A certificate is not transferable and is valid only for the provider and location identified on the certificate.
- C.** A provider shall post the certificate in a conspicuous location in the home facility.
- D.** A certificate is the property of the state of Arizona. Upon revocation or voluntary closure, a provider shall surrender the certificate issued to the provider to the Department within 7 days.
- E.** The Department shall designate on the certificate issued to the provider the total number of children to be allowed in child care at any one time. The total shall not exceed the limits set in R6-5-5220.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective February 24, 1977 (Supp. 77-1). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5206 renumbered to R6-5-5207; new Section R6-5-5206 renumbered from R6-5-5205 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5207. Maintenance of Certification: General Requirements; Training

- A.** Child care personnel and all individual backup providers shall be fingerprinted and pay all required fingerprint fees within the time prescribed in A.R.S. § 41-1964.
- B.** A provider and all individual backup providers shall maintain the physical, mental, and emotional health necessary to fulfill all legal requirements for child care providers.
- C.** No later than 60 days after the date of provider certification, a provider and individual backup providers shall furnish the Department with proof of acceptable first aid training and certification in infant/child cardiopulmonary resuscitation ("CPR"). As used in this Section, "acceptable training" means a course approved by the American Red Cross or the American Heart Association. The Department may extend the time for completing this requirement and children may remain in care during an extension, if:
 1. The class was not available within the 60-day time period; or
 2. The provider, individual backup provider, or a dependent was ill, and the provider or backup provider was unable to attend a scheduled class due to the illness.
- D.** A provider and individual backup providers shall maintain current training and certification in first aid and infant/child CPR through acceptable training courses.
- E.** A certified provider shall attend at least 6 hours of training each calendar year in any of the following subjects:
 1. The Department's child care program, policies, and procedures;
 2. Child health and safety, including recognition, control, and prevention of illness and disease;
 3. Child growth and development;
 4. Child abuse prevention, detection, and reporting;
 5. Positive guidance and discipline;
 6. Child nutrition;
 7. Communication with families; family involvement;
 8. Developmentally appropriate practices; and
 9. Other similar subjects designed to improve the provider's ability to provide child care.
- F.** A provider shall maintain a record of all training, and annually furnish the Department with proof of attendance.
- G.** A provider shall maintain a safe and clean home facility, including furnishings, equipment, supplies, materials, utensils, toys, and grounds, that meets the standards in this Article.
- H.** At all times, a provider shall allow the Department access to all parts of the home facility. The Department shall make at least 2 on-site visits each year to each home facility and in-home provider. At least 1 visit shall be unannounced.
- I.** A provider shall allow a parent or a designated representative access to the home facility at all times when the parent's child is present, and shall give parents and designated representatives written notice explaining this right.
- J.** A provider shall directly supervise a visitor to the home facility while the visitor is in an area with a child in care.
- K.** A provider shall not expose a child in care to tobacco products or smoke.
- L.** A provider shall not care for a child while under the influence of alcoholic beverages, medication, or any other substance, that may or does impair the provider's ability to care for a child.
- M.** A provider shall not consume alcoholic beverages while caring for a child.
- N.** A provider shall not refuse to provide care to any child on the basis of color, sex, religion, disability, or national origin.
- O.** If a provider is notified that a child or household member has a communicable disease, the provider shall ensure that a child

who lacks written evidence of immunity to the communicable disease is not permitted to be present in the home facility until:

1. A parent provides written evidence of the child's immunity to the disease; or
2. A local health department notifies the provider that the child may return to the home facility

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5207 renumbered to R6-5-5208; new Section R6-5-5207 renumbered from R6-5-5206 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5208. Recertification Requirements

- A. Before recertifying a provider, the Department shall interview the provider at the location where child care will be provided. The Department Representative may interview an in-home provider at the in-home provider's residence. The interview shall include a discussion and review of the provider's experiences in the provision of child care services during the current certification period.
- B. A provider shall demonstrate the continued physical, mental, and emotional health necessary to perform the duties and fulfill the responsibilities in this Article.
- C. Before recertification, a provider and designated individual backup provider shall furnish a self statement of physical and mental health and freedom from communicable diseases on a form furnished by the Department.
- D. The Department shall renew a certificate only after a provider demonstrates the intent and ability to provide child care that is safe, developmentally appropriate, and in compliance with the requirements of this Article.
- E. Unless the Department, in its sole discretion, accepts a provider's written assurance of future compliance with the requirements of this subsection, the Department shall deny recertification or take other enforcement action when the provider does not accept Department-referred children on 3 separate occasions unless the refusal is for:
 1. Illness, accident, or incapacity of the provider;
 2. Illness, accident, or incapacity of any household member, if the existing condition will pose a risk to children in care, or limit the provider's ability to provide child care in accordance with the law;
 3. The provider is not equipped or trained to provide care to the referred child, and the provider cannot acquire the equipment or training without undue hardship;
 4. The provider has no available slots;
 5. The situations listed in R6-5-5222 and a backup provider is unavailable;
 6. A child has not been immunized, and the parent or guardian is unwilling to obtain appropriate immunization, in accordance with R6-5-5219(F); or
 7. The home facility is in temporary disrepair or under construction.
- F. The Department may obtain any supplemental information needed to determine continuing fitness to serve as a certified child care provider.
- G. A provider, all household members, and an individual backup provider shall cooperate with the Department in providing all information required for recertification.
- H. The Department shall determine whether to recertify a provider based on the provider's original application package, all previous monitoring reports, and all additional information the Department receives during the recertification process.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5208 renumbered to R6-5-5209; new Section R6-5-5208 renumbered from R6-5-5207 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5209. Program and Equipment

- A. A provider shall offer a program that is developmentally appropriate for, and meets the needs of each child in care. The daily program and activity schedule shall include a balance of the following:
 1. Indoor and outdoor activities;
 2. Activities that encourage movement and quiet time;
 3. Activities that encourage a child's creativity;
 4. Individual and group activities;
 5. Small and large muscle development activities; and
 6. Activities that include social interaction, problem solving, and negotiating skills.
- B. A provider shall incorporate into the program each child's daily routine activities, such as diapering, toileting, eating, dressing, resting, and sleeping, in accordance with the developmental needs of each child.
- C. A provider shall develop a flexible, developmentally appropriate program that the provider can adjust to accommodate unanticipated events such as the illness of a child or changes in the weather.
- D. A provider shall have play equipment and materials sufficient to meet the program requirements described in subsections (A) through (C), and to ensure that all children in care can be occupied in developmentally appropriate play at the same time.
- E. A provider who cares for a child who is younger than age 2 shall have a variety of developmentally appropriate play equipment and supplies available for the child, such as:
 1. Touch boards;
 2. Soft puppets;
 3. Soft or plastic blocks;
 4. Simple musical instruments;
 5. Push-pull toys for beginning walkers;
 6. Picture and texture books;
 7. Developmentally appropriate art materials, including crayons, paints, finger paints, watercolors, and paper;
 8. Simple, 2-3 piece puzzles and peg boards; and
 9. Large beads to string or snap.
- F. A provider who cares for a child age 2 or older shall have a variety of developmentally appropriate play equipment and supplies available for the child, such as:
 1. Art supplies;
 2. Blocks and block accessories;
 3. Books and posters;
 4. Dramatic play areas with toys and dress-up clothes;
 5. Large muscle equipment;
 6. Manipulative toys;
 7. Science materials; and
 8. Musical instruments.
- G. A provider shall have a bed, cot, mat, crib, or playpen for each child in care who requires a daily nap or rest period. Each infant in care shall have a safe crib, port-a crib, bassinet, or playpen.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5209 renumbered to R6-5-5210; new Section R6-5-5209 renumbered from R6-5-5208 and amended by final rulemaking at 5 A.A.R.

1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5210. Safety; Supervision

- A.** When a provider is unavailable to care for a child for a reason described in R6-5-5222(B), the provider may use only the backup provider designated under R6-5-5202 or R6-5-5222(E).
- B.** A provider shall give parents and guardians written notice of the provider's backup care plan.
- C.** A provider shall not engage in activities that interfere with the ability to supervise and care for children, including other employment, and volunteer or recreational activities. An in-home provider shall not perform housekeeping duties unrelated to the care of the child.
- D.** A provider shall directly supervise each child who is awake.
- E.** A provider shall have unobstructed access to and shall be able to hear each child who is sleeping.
- F.** A provider shall not permit a child in care to use a spa or hot tub.
- G.** A provider shall have written permission from a parent or guardian before allowing a child to engage in water play. In this subsection, "water play" means any activity in which water is likely to get into a child's ears.
- H.** A provider shall directly supervise any child who is in a pool area.
- I.** A provider shall accompany a child who is using a public or semi-public swimming place.
- J.** A provider shall have written permission from a child's parent or designated representative to bathe or shower the child, or to allow the child to bathe or shower independently.
- K.** A provider shall not permit a child younger than age 6 to bathe or shower unsupervised.
- L.** A provider shall report suspected child abuse or neglect to CPS or the local law enforcement department as required by A.R.S. §13-3620.
- M.** A provider shall use developmentally appropriate precautions to separate a child in care from hazardous areas, including locked doors and safe portable folding gates.
- N.** A provider shall release a child only to the child's parent or to an adult who has been designated in writing by the parent.
- O.** A provider shall not allow a person addicted to or under the influence of illegal drugs or alcohol in the home facility while children in care are present.
- P.** A provider shall not permit a person who is abusive to children, or who uses unacceptable disciplinary methods as described in R6-5-5212, into the home facility when children in care are present.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Amended effective March 5, 1979 (Supp. 79-2). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5210 renumbered to R6-5-5211; new Section R6-5-5210 renumbered from R6-5-5209 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5211. Sanitation

- A.** A provider and each child in care shall wash their hands with soap and running water after playing with animals or using the toilet, and before and after handling, serving, or eating food. If a child cannot reach a sink with running water, due to the child's age or some limiting condition, the provider shall clean that child's hands with an individual, clean, washcloth.
- B.** A provider shall wash, in hot soapy water, and sanitize, all utensils used for eating, drinking, and food preparation.
- C.** A provider shall have a garbage can with a close-fitting lid.

- D.** A provider shall dispose of garbage in the home facility at least once a day.
- E.** A provider shall empty and sanitize wading pools measuring 12 inches deep or less, after each use.
- F.** A provider shall maintain, in a sanitary condition, a swimming pool or other area or container, which is more than 12 inches deep and used for water play.
- G.** A provider shall frequently check the diaper of each child in care and shall immediately change a soiled diaper.
- H.** A provider shall have sanitary arrangements for diaper changing and disposal of soiled diapers, including the following:
 - 1. The diaper changing area shall not be in an area where food is prepared or consumed;
 - 2. The diapering surface shall be cleaned, sanitized, and dried after each diaper change;
 - 3. Following bulk stool disposal into a toilet, soiled cloth diapers shall not be rinsed, but shall be bagged in plastic, individually labeled with child's name, stored in a covered container out of reach of children, and returned to the child's parent each day; and
 - 4. Soiled disposable diapers shall be discarded in a tightly covered, lined container out of reach of children.
- I.** Before and after each diaper change, a provider shall wash hands with soap and running water in a sink not used for food preparation.
- J.** A provider shall sanitize a bathtub before bathing each child in care.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Section repealed, new Section adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5211 renumbered to R6-5-5212; new Section R6-5-5211 renumbered from R6-5-5210 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5212. Discipline

- A.** A certified provider and all individual backup providers shall sign a written agreement to abide by the Department's policy on developmentally appropriate discipline.
- B.** Only a provider may discipline a child in care;
- C.** A provider may physically restrain a child whose behavior is uncontrolled, only when the physical restraint:
 - 1. Is necessary to prevent harm to the child or others;
 - 2. Occurs simultaneously with the uncontrolled behavior;
 - 3. Does not impair the child's breathing; and
 - 4. Cannot harm the child.
 A provider shall use the minimum amount of restraint necessary to bring the child's behavior under control.
- D.** A provider shall not use the following disciplinary measures:
 - 1. Corporal punishment, including shaking, biting, hitting, or putting anything in a child's mouth;
 - 2. Placing a child in isolation or in a closet, laundry room, garage, shed, basement, or attic;
 - 3. Locking a child out of the home facility;
 - 4. Placing a child in any area where the provider cannot directly supervise the child;
 - 5. Methods detrimental to the health or emotional needs of a child;
 - 6. Administering medications;
 - 7. Mechanical restraints of any kind;
 - 8. Techniques intended to humiliate or frighten a child;
 - 9. Discipline associated with eating, sleeping, or toileting; or
 - 10. Abusive or profane language.
- E.** As a disciplinary measure, a provider may place a child in time out. During the time out period, the provider shall keep the

child in full view. Time out shall not be used for children less than age 3.

- F. A provider shall maintain consistent, reasonable rules that define acceptable behavior for a child in care.
- G. A provider shall use discipline only to teach acceptable behavior and to promote self-discipline, not for punishment or retribution.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5212 renumbered to R6-5-5213; new Section R6-5-5212 renumbered from R6-5-5211 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5213. Evening And Nighttime Care

- A. A provider who offers evening or nighttime care shall remain awake until each child in care is asleep.
- B. A provider who offers nighttime care shall have a safe and sturdy crib for each infant, and a safe and sturdy bed or cot with mattress for each child. Crib bars or slats shall be no more than 2-3/8 inches apart, and the crib mattress shall fit snugly into the crib frame so that no space remains between the mattress and frame.
- C. A provider may allow siblings to share a bed only if the provider has received written parental permission.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5213 renumbered to R6-5-5214; new Section R6-5-5213 renumbered from R6-5-5212 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5214. Children Younger than Age 2

A provider who cares for a child younger than age 2 shall comply with the following requirements:

1. A provider shall frequently hold a child and give each infant and toddler physical contact and attention throughout the day.
2. A provider shall respond promptly to a child's distress signals and need for comfort.
3. A provider shall get written permission from a parent or guardian to give a child a bedtime or nap-time bottle. If the provider receives permission, the provider shall use only water in the bottles, unless otherwise directed by the child's physician.
4. A provider shall not confine a child in a crib, high chair, swing, or playpen, for more than 1 consecutive waking hour.
5. A provider shall not feed cereal by bottle, except with the written instruction of a physician.
6. A provider shall hold an infant younger than age 1 for any bottle feeding, and shall not prop bottles with a child in care.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5214 renumbered to R6-5-5215; new Section R6-5-5214 renumbered from R6-5-5213 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5215. Children with Special Needs

- A. When enrolling a child with special needs, a provider shall comply with the requirements of this Section:
 1. A provider shall consult with parents to establish a mutually agreed upon plan regarding services for a child with special needs;

2. A provider shall have the physical ability and appropriate training to provide the care required by a child with special needs;
 3. A provider shall use best efforts to integrate a child with special needs into the daily activities of the home facility in a manner that is the least restrictive, and that meets the child's individual needs;
 4. If a provider regularly cares for a child with special needs older than age 3 who requires diapering, the home facility shall have a diaper changing area that permits the child to have privacy. Proper sanitation shall be maintained as described in R6-5-5211.
- B. A provider shall make reasonable accommodations in the home facility, equipment, and materials for a child with special needs.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5215 renumbered to R6-5-5216; new Section R6-5-5215 renumbered from R6-5-5214 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5216. Transportation

- A. A provider shall obtain prior written permission from a child's parent before transporting a child in a privately owned vehicle or on public transportation.
- B. A provider shall ensure that a child in care is transported in a private vehicle by a person who has:
 1. A valid Arizona driver's license;
 2. Automobile insurance that meets the financial responsibility requirement of Arizona law; and
 3. No convictions for driving while intoxicated within 3 years before the date of transportation.
- C. A provider shall transport a child only in a mechanically safe vehicle. "Mechanically safe" means a vehicle with:
 1. Functioning brakes, signal lights, and headlights;
 2. Tires with tread; and
 3. Structural integrity.
- D. A provider shall not transport a child on a motorcycle or in a vehicle that is not constructed for the purpose of transporting people, such as a truck bed, camper, or any trailered attachment to a motor vehicle.
- E. A provider shall transport a child in a separate car seat, seat belt, or child-restraint device in compliance with A.R.S. § 28-907.
- F. A provider shall never leave a child unattended in a vehicle.
- G. A provider shall maintain first-aid supplies in a privately owned vehicle used to transport children in care.
- H. A provider shall carry a child's emergency-information card when transporting a child in care.
- I. A provider shall sign a form that states that the provider will abide by R6-5-5216.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5216 renumbered to R6-5-5217; new Section R6-5-5216 renumbered from R6-5-5215 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5217. Meals and Nutrition

- A. A provider shall serve a child in care wholesome and nutritious foods and beverages. In this Section, "wholesome and nutritious" means foods and beverages consistent with the requirements of 7 CFR 226.20 (January 1, 1998), which is incorporated by reference and available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix.

nix, Arizona 85007 and in the office of the Secretary of State at 1700 West Washington, Phoenix, Arizona. The incorporated material contains no later amendments or editions.

- B.** A provider shall supplement meals and snacks supplied by a parent when the supplied food does not provide a child with a wholesome and nutritious diet.
- C.** A provider shall make available to a child in care meals and snacks that satisfy the child's appetite and dietary needs.
- D.** A provider shall consult with a parent to identify, in writing, any special dietary needs or instructions for a child in care.
- E.** A provider shall give a child any necessary assistance in feeding and shall teach self-feeding skills, but shall not force a child to eat.
- F.** A provider shall monitor all perishable foods, including infant formulas and sack lunches. The provider shall ensure that food is individually labeled with a child's name, dated, covered, and properly stored to prevent spoilage, at temperatures of 45° F. or less.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5217 renumbered to R6-5-5218; new Section R6-5-5217 renumbered from R6-5-5216 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5218. Health Care; Medications

- A.** When a provider enrolls a child for care, the provider shall make written arrangements with the child's parent for emergency medical care of the child.
- B.** If a child becomes ill while in care, a provider shall:
 1. Make the child comfortable and keep the child in full view; and
 2. Notify the parent or other designated person that the child is ill and must be immediately removed from care.
- C.** A provider shall notify the parent of other children in care when a child in care contracts an infectious illness.
- D.** A provider shall not provide care while knowingly infected with or presenting symptoms of an infectious disease.
- E.** If a child exhibits symptoms of an infectious disease, the child may return to care when fever free and symptom free, or with written permission from the child's medical practitioner that returning will not endanger the health of the child or other children in care.
- F.** A provider shall not admit a child in need of professional medical attention to the home facility and shall direct the parent to obtain medical attention for the child.
- G.** Only a provider shall administer medication with signed written instructions for administering the medication from the child's parent.
- H.** A provider shall not administer:
 1. Medication that is date expired or in something other than its original container; or
 2. Prescription medication that does not bear the date of issue, the child's name, the amount and frequency of dosage, and the doctor's name.
- I.** A provider shall maintain a written log of all medications administered. The log shall include:
 1. The name of the child receiving the medication;
 2. The name of the medication;
 3. The date and time of administration; and
 4. The dosage administered.

A provider shall use a sanitary medication measure for accurate dosage.
- J.** A provider shall keep all medication in a locked storage container, and refrigerate if necessary.

- K.** A provider shall have first-aid supplies available at the home facility, which shall be administered only by the provider.
- L.** A provider is responsible for obtaining only emergency medical treatment for a child in care.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5218 renumbered to R6-5-5219; new Section R6-5-5218 renumbered from R6-5-5217 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5219. Recordkeeping; Unusual incidents; Immunizations

- A.** A provider shall maintain a daily attendance log on a Department-approved form and shall require that each child be signed in and out on the log by the parent or other individual designated in writing by the parent.
- B.** On a form approved by the Department, a provider shall promptly log all accidents, injuries, behavior problems, or other unusual incidents at the home facility, including any suspected child abuse or neglect.
- C.** A provider shall immediately report all unusual incidents to a parent or guardian of the child involved and shall report the incidents to the Department within 24 hours of the time of occurrence.
- D.** A provider shall maintain records in accordance with the requirements of the provider's child care registration agreement. The provider shall make the following records readily available for inspection by the Department and shall keep them separate from household and other personal records:
 1. Information listed in subsection (E);
 2. Immunization records identified in subsection (F) and R6-5-5202 (L);
 3. Documentary evidence of freedom from communicable tuberculosis as required by R6-5-5202 (M);
 4. The provider's certification, re-certification, and monitoring records;
 5. Health records of child care personnel;
 6. The provider's training records;
 7. Unusual incident reports; and
 8. Daily logs of attendance, accidents, injuries, medications administered, behavior problems, or other unusual incidents.
- E.** A provider shall maintain at least the following information for each child in care:
 1. The child's name, home address, telephone number, gender, and date of birth;
 2. The name, home and business addresses, and telephone numbers of the child's parent;
 3. The name, address and telephone number of the child's physician or health care provider and hospital;
 4. Authorization and instructions for emergency medical care when the parent cannot be located; and
 5. Written authorization to release a child to any individual other than the parent and the name, home and work addresses, and telephone numbers of that individual.
- F.** A provider shall maintain an immunization record or exemption affidavit for each child in care.
 1. Documentation required under this subsection is limited to:
 - a. An immunization record prepared by the child's health care provider stating that child has received current, age-appropriate immunizations specified in R9-6-701, including Immunizations for Diphtheria, homophiles influenza type b, Hepatitis B, Measles,

Mumps, Pertusis, Poliomyelitis, Rubella, and Tetanus;

- b. An affidavit signed by the child's health care provider stating that the child has a medical condition that causes the required immunizations to endanger the child's health; or
 - c. An affidavit signed by the child's parent stating that the child is being raised in a religion whose teachings oppose immunization.
2. If a child has received all current immunizations but requires further inoculations to be fully immunized, the provider shall require the parent to verify that the parent will have the child complete all immunizations in accordance with the DHS recommended schedule identified in R9-6-701. The provider shall:
 - a. Require the parent to produce documented records from the child's health care provider of the immunizations as they are completed; and
 - b. Maintain the records as required by subsection (F)(1).
 3. The provider shall not permit a child in care to remain enrolled for more than 15 days if the parent does not provide proof of current, age-appropriate immunizations, a statement of timely completion of further inoculations, or exemption from immunization.

- G.** Children exempted from immunizations for religious or medical reasons shall be excluded from the home facility if there is an outbreak of an immunizable disease at the home facility.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5219 renumbered to R6-5-52020; new Section R6-5-5219 renumbered from R6-5-5218 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5220. Provider/Child Ratios

- A.** The Department may certify a provider in a home facility to care for a maximum of 4 children at a time, from birth through age 12, for compensation. A provider in a home facility may care for a maximum of 6 children at a time, from birth through age 12, or a child age 13 or older who is a child with special needs, when all of the following conditions are met:
1. No more than 4 children in care are for compensation; and
 2. No more than 2 of the children in care are younger than age 1, unless a sibling group.
- B.** The Department may certify an in-home provider to provide the following care:
1. An in-home provider may care for a sibling group of no more than 6 children.
 2. An in-home provider shall care only for the children who live in that home.
 3. An in-home provider may bring the in-home provider's own children to the in-home location with the written permission of the client, and so long as the total number of children at the in-home location does not exceed 6 children.
- C.** The Department may further limit the ratios allowed in subsections (A) and (B) to protect the well-being of children in care. The Department may impose additional restrictions when:
1. There are more than 2 children residing in the home facility who are counted in the ratio;
 2. The Department determines that the home facility and the furnishings are inadequate to accommodate 4 children at a time for compensation, as provided in section R6-5-5203(6);

3. The department has determined that a provider is physically unable to care for 4 children at a time; for compensation or
4. A provider requests certification for fewer than 4 children at a time for compensation.

- D.** For the sole purpose of establishing and monitoring ratios, the Department shall not count any child who is age 13 or older, except as provided in subsection (A) for a child with special needs.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5220 renumbered to R6-5-5221; new Section R6-5-5220 renumbered from R6-5-5219 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5221. Change Reporting Requirements

At least 15 days before the effective date of any scheduled change, or within 24 hours after an unscheduled change, which significantly affects the provision of child care services, a provider shall furnish the Department with written notice of the change. Significant changes include, but are not limited to:

1. Home remodeling;
2. Home repair;
3. Pool installation;
4. Relocating to a new residence;
5. Change in household composition;
6. Telephone number change;
7. Change of backup provider;
8. Voluntarily relinquishing the certificate; and
9. Any other change in the home facility or the provider's personal circumstances that affect the provider's ability to provide stable child care services.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5221 renumbered to R6-5-5222; new Section R6-5-5221 renumbered from R6-5-5220 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5222. Use of A Backup Provider

- A.** A provider shall maintain a backup provider, and shall keep clients and the Department apprised of the backup provider's identity and location.
- B.** A provider may use a backup provider only in the following circumstances:
1. When the provider is ill;
 2. When the provider is attending to an emergency related to the provision of child care;
 3. When the provider has an emergency involving the provider or the provider's dependent family members;
 4. When the provider needs to attend a non-emergency appointment for the provider or the provider's dependent family members, and the provider cannot schedule the appointment outside of normal child care hours;
 5. When the provider is attending classes to meet training requirements listed in this Article; or
 6. When the provider is taking a vacation.
- C.** At the time of enrollment of a child in care, a provider shall advise the parent of the possible use of a backup provider.
- D.** A provider shall notify the Department within 24 hours of the onset of the use of a backup provider.
- E.** When a provider designates a new backup provider, the provider shall ensure that the backup provider meets the requirements for backup providers in R6-5-5202.

- F. A provider shall execute a backup provider agreement form furnished by the Department, which identifies the backup provider and contains assurances that the backup provider will be used in accordance with the requirement of this Section.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5222 renumbered to R6-5-5223; new Section R6-5-5222 renumbered from R6-5-5221 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5223. Claims For Payment

- A. A provider shall submit claims for payment in the manner prescribed in the child care registration agreement with the Department.
- B. A provider shall make all financial arrangements with a backup provider. The Department shall not make direct payments to the backup provider.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5223 renumbered to R6-5-5224; new Section R6-5-5223 renumbered from R6-5-5222 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5224. Complaints; Investigations

- A. Any person may register, with the Department, a written or verbal complaint about a provider or the operation of a home facility. Upon receipt of a complaint, or in response to the observations of Department staff, the Department shall investigate the allegations made and any matters related to certification and compliance with the child care registration agreement.
- B. A provider who is the subject of a complaint shall cooperate with the Department in conducting an investigation. The provider shall allow a Department representative to inspect the home facility and all records, and to interview any child care personnel, or household member.
- C. The Department shall maintain a file on all complaints against a provider and shall make information on valid complaints available to parents and to the general public upon request and as permitted by law.
- D. Following an investigation, the Department shall take appropriate administrative action as described in this Article.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5224 renumbered to R6-5-5225; new Section R6-5-5224 renumbered from R6-5-5223 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5225. Probation

- A. The Department may place a provider on probation when a Department representative observes a problem or the Department receives and validates a complaint in an area of noncompliance that does not endanger a child in care.
- B. The Department shall set a term of probation that does not exceed 30 days.
- C. The Department may suspend a provider's child care certificate if the same infraction that resulted in probation is repeated during a provider's current certification period and the Department determines that the provider has not demonstrated either the intent or ability to comply with the requirements of this Article.

- D. The Department shall not authorize any new child for payment to a provider who is on probation. Children already in that provider's care may remain authorized.
- E. Probationary status is not appealable.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5225 renumbered to R6-5-5226; new Section R6-5-5225 renumbered from R6-5-5224 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5226. Certification, Denial, Suspension, and Revocation

- A. The Department may deny, suspend, or revoke certification when:
1. An applicant or provider violates or fails to comply with any statute or rule applicable to the provision of Child Care Services.
 2. An applicant or provider has a certificate or license to operate a child care home or facility denied, revoked, or suspended in any state or jurisdiction.
 3. An applicant or provider fails to disclose requested information or provides false or misleading information to the Department.
 4. A provider's contract with the Department to furnish child care services expires or is terminated.
 5. Child care personnel fail or refuse to comply with or meet the requirements of A.R.S. § 41-1964.
 6. A provider fails or refuses to correct or repeats a violation that resulted in probation or suspension.
 7. The Department, through its CPS hotline, receives a report of alleged child maltreatment by an applicant, provider, or household member who is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative hearing.
 8. An applicant or provider fails or refuses to cooperate with the Department in providing information required by these rules or any information necessary to determine compliance with these rules.
 9. An applicant, provider, or household member engages in any activity or circumstance that may threaten or adversely affect the health, safety, or welfare of children, including inadequate supervision or failure to protect from actual or potential harm.
 10. An applicant or provider is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children.
 11. The Department, through its CPS hotline, receives a report of alleged child maltreatment in a home facility that is under investigation by CPS or a law enforcement agency or is being reviewed in a civil, criminal, or administrative proceeding.
 12. An applicant, provider, or household member is the subject of a substantiated or undetermined report of child maltreatment in any state or jurisdiction. Substantiated child maltreatment includes, but is not limited to, a probable cause finding by CPS or a law enforcement agency.
 13. CPS or a law enforcement agency substantiates a report of child maltreatment in a home facility.
- B. In determining whether to take disciplinary action against a provider, or to grant or renew a certificate, the Department may evaluate the provider's history from other certification periods, both in Arizona and in other jurisdictions, and shall consider multiple violations of statutes or rules applicable to the provision of child care services as evidence that the appli-

cant or provider is unable or unwilling to meet the needs of children.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Former Section R6-5-5226 repealed; new Section renumbered from R6-5-5225 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5227. Adverse Action; Notice Effective Date

- A. When the Department denies, suspends, or revokes certification, it shall mail a written, dated notice of the adverse action to the applicant or the provider at the applicant's or provider's last known address.
- B. A notice of adverse action shall specify:
 1. The adverse action taken and date the action will be effective;
 2. The reasons supporting the adverse action; and
 3. The procedures by which the applicant or provider may contest the action taken and the time period in which to do so.
- C. Except as provided in subsection (D), a revocation, suspension, or denial of recertification is effective 20 calendar days from the date on the notice or letter advising the provider of the adverse action.
- D. A suspension, revocation, or denial of recertification is effective on the date of the notice or letter advising the person of the adverse action if:
 1. The adverse action is based on the failure of child care personnel to comply with or meet the requirements of A.R.S. § 41-1964; or
 2. The Department bases the adverse action on a determination that the health, safety, or welfare of a child in care is in jeopardy.
- E. The Department shall stop payment authorization for all subsidized children in care on the effective date of a suspension, revocation, or denial of recertification.
- F. The Department shall not authorize the referral of additional children to a provider after mailing a notice of adverse action to the provider's last known address.

Historical Note

Adopted effective May 11, 1994 (Supp. 94-2). Amended effective June 4, 1998 (Supp. 98-2). Former Section R6-5-5227 renumbered to R6-5-5228 and new Section adopted by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

R6-5-5228. Appeals

- A. An applicant or provider may appeal the following Department decisions:
 1. Denial of certification or re-certification;
 2. Suspension of a certificate; and
 3. Revocation of a certificate.
- B. A person who wishes to appeal an adverse action shall file a written request for a hearing with the Department within 15 calendar days of the date on the notice or letter advising the provider of the adverse action.
- C. The Department shall conduct a hearing as prescribed in 6 A.A.C. 5, Article 75. Decisions based on failure to clear a fingerprint check or criminal history check are not appealable under this Article.
- D. Matters relating to contractual agreements with the Department, including payment rates and amounts, are not appealable under this Article.
- E. When an adverse action based on R6-5-5226(A)(7) is appealed under this Article, allegations of child maltreatment are not at

issue and shall not be adjudicated in an administrative proceeding conducted under subsection (C).

Historical Note

New Section R6-5-5228 renumbered from R6-5-5227 and amended by final rulemaking at 5 A.A.R. 1983, effective May 20, 1999 (Supp. 99-2).

ARTICLE 53. REPEALED

Former Article 53 consisting of Sections R6-5-5301 through R6-5-5305 repealed effective April 9, 1981.

ARTICLE 54. REPEALED

Former Article 54 consisting of Sections R6-5-5401 through R6-5-5411 repealed effective November 8, 1982.

ARTICLE 55. CHILD PROTECTIVE SERVICES

R6-5-5501. Definitions

The definitions in A.R.S. §§ 8-531, 8-201, and 8-801, and the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-201(1).
2. "Abuse" means the same as A.R.S. § 8-201(2).
3. "Aggravating factor" means a specific circumstance that increases the risk of harm to a child and may result in a shorter investigation response time.
4. "Alleged abuser" means a child's parent, guardian, or custodian accused of child maltreatment.
5. "Alternative investigation" means, under R6-5-5507, a method to determine that a report of child maltreatment is unsubstantiated without a field investigation.
6. "Alternative response" means a report referred to Family Builders for assessment and services and not investigated by CPS according to Laws 1997, Chapter 223, § 2.
7. "Caregiver" means a child's parent, guardian, or custodian.
8. "Child" means a person less than age 18.
9. "Child Abuse Hotline", or "the Hotline", means a state-wide, toll-free telephone service, including TDD service, that the Department operates 24 hours per day, 7 days per week, to receive calls about child maltreatment.
10. "CHILDS" means the Children's Information Library and Data Source, which is a comprehensive automated system to support child welfare policies and procedures and includes information on investigations, ongoing case management, and payments.
11. "CHILDS Central Registry" means the Child Protective Services Central Registry, a confidential computerized database within CHILDS, that the Department maintains according to A.R.S. § 8-804.
12. "Child welfare agency" has the same meaning as in A.R.S. § 8-501(A)(1).
13. "CPS" means Child Protective Services, a program within the Administration for Children, Youth and Families (ACYF), a division of the Department designated to receive and investigate allegations of child maltreatment and provide protective services as described in subsection (40).
14. "CPS Administrator" means the DES Administrator responsible for operation of CPS, or that person's designee, which may include the Field Operations Manager, the CPS District Program Manager ("DPM"), the CPS Assistant District Program Manager ("APM"), or the CPS Local Office Manager.
15. "CPS Specialist" has the same meaning ascribed to "protective services worker" in A.R.S. § 8-801(2).

16. "CPS-CIU" means the Child Protective Services Central Intake Unit that operates the Child Abuse Hotline, screens incoming communications, and transmits reports to a CPS unit.
17. "Custodian" means a person defined in A.R.S. § 8-201(8). For CPS reporting purposes, a custodian is also any person with whom the child resides at the time of a maltreatment and includes a:
 - a. Friend,
 - b. Relative,
 - c. Foster parent, and
 - d. Child welfare agency.
18. "DCYF" means the Department's Division of Children, Youth and Families, an administrative unit that includes CPS.
19. "DDD" means the Department's Division of Developmental Disabilities.
20. "Delinquent act" has the same meaning prescribed in A.R.S. § 8-201(9).
21. "Department" means the Arizona Department of Economic Security.
22. "Exploitation" means use of a child by a parent, guardian, or custodian for material gain, which may include forcing a child to panhandle, steal, or perform other illegal activities.
23. "Family" means persons, including at least 1 child, who are related by blood or law, who are legal guardians of a child, or who reside in the same household.
24. "Family assessment" means a process that:
 - a. CPS uses to evaluate a family's strengths, weaknesses, and problems;
 - b. Is based on the family's history, observations about the family, professional opinions, and other information; and
 - c. Includes a child safety assessment to determine the probability of risk to a child under R6-5-5512.
25. "Family Builders" means a program that allows CPS to refer selected reports to community-based providers for a family assessment and services according to Laws 1997, Chapter 223, § 2.
26. "Guardian" means the same as A.R.S. § 8-531(9).
27. "Incoming communication" means a telephonic, written, or in-person contact to CPS that is received by or ultimately directed to the Child Abuse Hotline.
28. "Licensing specialist" means a person who is:
 - a. Designated by the Department or another state licensing agency; and
 - b. Responsible for licensing, supervision, support, and monitoring of foster homes or child welfare agencies.
29. "Lifestyle" means a way of life or pattern of conduct that reflects the values and attitudes of a child's parent, guardian, or custodian.
30. "Maltreatment" means abuse, neglect, abandonment, or exploitation of a child. When used in reference to CPS activities, maltreatment means that a parent, guardian, or custodian:
 - a. Has committed an act of maltreatment,
 - b. May commit an act of maltreatment,
 - c. Has permitted another person to commit an act of maltreatment, or
 - d. Had reason to know that another person might commit an act of maltreatment and did not act to prevent the potential maltreatment.
31. "Mandated reporter" means a person who is required to report suspected child maltreatment under A.R.S. § 13-3620.
32. "Minor hygienic problem" means a body condition that does not pose a risk of serious or immediate harm, such as body odor, dirty hair, matted hair, dirty clothing, and treated chronic head lice.
33. "Mitigating factor" means a specific circumstance that reduces the risk of harm to a child and may permit a longer investigation response time.
34. "Neglect" or "neglected" means the same as A.R.S. § 8-201(21).
35. "Non-abusive caregiver" means a parent, guardian, or custodian who is not the subject of a CPS report or an investigation of alleged maltreatment.
36. "Notice of removal" means a form of notification that CPS gives to a person other than a caregiver when CPS removes a child and places the child in temporary custody.
37. "Ongoing protective services" are voluntary or involuntary social services designed to help a family resolve problems that contribute to child abuse and may include counseling, parenting classes, parent aide services, and voluntary foster care placement.
38. "Out-of-home placement" means a place where a child resides when the child is unable to reside at home because of maltreatment and includes:
 - a. A relative home,
 - b. A foster home,
 - c. A licensed child welfare agency,
 - d. A behavioral health facility,
 - e. An unlicensed nonrelative,
 - f. An independent living program, and
 - g. A group home for persons with developmental disabilities.
39. "Probable cause" means that the Department has some evidence that an allegation is more likely to be true than not true.
40. "Protective services" means the same as A.R.S. § 8-801(1).
41. "PSRT" means the DCYF Protective Services Review Team that administers the process described in A.R.S. § 8-811 for appeal of proposed substantiated findings of abuse or neglect.
42. "Report" means a classification assigned to an incoming communication after the Child Abuse Hotline has screened the communication and found it to include:
 - a. An allegation of maltreatment about a person who is currently a child, and
 - b. Sufficient information for CPS to locate the child who is the subject of the maltreatment.
43. "Screening" means an initial process of determining whether an incoming communication contains an allegation of child maltreatment and should be classified as a report.
44. "Standard response time" means the period between the time a local CPS office receives a report from the Hotline and an action is taken to determine that a child victim is safe, in the absence of aggravating or mitigating factors.
45. "Substantiated" means that a CPS Specialist has concluded, after an investigation, that there is probable cause to believe an alleged abuser committed an act of child maltreatment.
46. "TDD" means a telecommunication device for the deaf.
47. "Unsubstantiated" means that a CPS Specialist has concluded, after an investigation, that there is no probable

cause to believe an alleged abuser committed an act of child maltreatment.

Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5501 repealed, new Section R6-5-5501 adopted effective December 8, 1983 (Supp. 83-6). Amended by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5502. Receipt and Screening of Information; Child Abuse Hotline

- A. The Department operates a Child Abuse Hotline to receive and screen incoming communications. If a person calls, visits, or writes a Department office other than the Child Abuse Hotline to report child maltreatment, the Department shall refer the person or written communication to the Hotline.
- B. The Department accepts anonymous calls of alleged maltreatment.
- C. When the Hotline receives a communication, the Hotline staff shall:
 1. Ask a caller's identity;
 2. Use the standardized questions listed in Appendix 1 to this Article, to determine:
 - a. The type of maltreatment alleged, and
 - b. Whether to classify the communication as a report, and
 2. Check the CHILDS Central Registry and other DES computer databases for prior reports on the same persons.
- D. When the Department receives an oral report from a mandated reporter, the Department shall ask the mandated reporter to file a written statement confirming the oral report.

Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5502 repealed, new Section R6-5-5502 adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5503. Non-Reports

Unless a communication includes an allegation of child maltreatment, the Department shall not classify as a report statements concerning the following matters:

1. A child's absence from school;
2. A child age 8 or older who allegedly committed a delinquent act;
3. Siblings of a child age 8 or older who allegedly committed a delinquent act.;
4. A child whose parents are absent but made arrangements for the child's care;
5. A child who is receiving treatment from an accredited Christian Science practitioner, or other religious or spiritual healer, unless the child's health is:
 - a. In imminent harm, under R6-5-5512(B); or
 - b. Endangered by lack of medical care;
6. A child with minor hygienic problems;
7. The lifestyle of a child's parent, guardian, or custodian;
8. Custody disputes, including:
 - a. A noncustodial parent who is denied visitation by the custodial parent, and
 - b. A relative or other person who wants legal custody of a child; and
9. Spiritual neglect of a child or the religious practices or beliefs to which a child is exposed.

Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5503 repealed, new Section R6-5-5503

adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5504. Preliminary Screening Classifications

- A. Screening Classifications. After preliminary screening, Child Abuse Hotline staff shall classify a communication into 1 of the following categories:
 1. A communication that is a non-report, or
 2. A report for investigation.
- B. Communication that is a non-report.
 1. If a caller describes a problem that does not involve child maltreatment, the Hotline staff shall refer the caller to a community resource that can help with the problem.
 2. If a communication involves a child who is already in the Department's care, custody, and control, the Hotline staff shall record the information and send it to the child's case manager for action. If a communication involves a licensed out-of-home care provider, the Hotline shall also notify the provider's licensing specialist or the appropriate licensing authority.
 3. If a communication involves suicidal or homicidal behavior, or presents a danger to self or others, the Hotline staff shall refer the caller to law enforcement or behavioral health services.
 4. If a communication involves an incorrigible or delinquent child who is age 8 or older, the Hotline staff shall refer the caller to the local county juvenile probation office.
 5. If a communication involves child maltreatment by a person other than a child's caregiver, without the caregiver's knowledge, the Hotline staff shall notify, and direct the caller to notify, local law enforcement.
- C. Review of non-reports.
 1. If the information provided by a caller is not a report, the CPS Hotline staff shall:
 - a. Record the information;
 - b. Inform a caller that the information is not a report; and
 - c. If a caller disagrees with the decision not to take a report, advise the caller that a request may be made for a supervisory review.
 2. If a caller requests a supervisory review, the Hotline staff shall transfer the caller to an available supervisor. The caller may request further review by the Child Abuse Hotline Assistant Program Manager, Hotline Program Manager, and ultimately, the ACYF Field Operations Manager.
 3. A Child Abuse Hotline supervisor or a CPS quality assurance specialist shall review all communications not classified as a report within 48 hours of receipt to verify that the communication was properly classified.
- D. Communication that is a report for investigation.
 1. If a communication contains the information required for a report, the Hotline staff shall gather additional information using the standardized questions listed in Appendix 2.
 2. The Hotline staff shall assign each report a priority code and may assign a tracking code.
 3. The Hotline staff may shorten or lengthen the response time based on aggravating or mitigating factors received during the screening.
 4. The Hotline staff shall give the caller the name and phone number of the local office supervisor receiving the report.
 5. The Hotline staff shall enter the report information into CHILDS.
 6. The Hotline staff shall immediately transmit the report to a local office for disposition.

Historical Note

Adopted effective June 2, 1976 (Supp. 76-3). Former Section R6-5-5504 repealed, new Section R6-5-5504 adopted effective December 8, 1983 (Supp. 83-6). Section repealed, new Section adopted at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5505. Priority Codes; Initial Response Time

- A.** Priority codes and initial response times are:
1. Priority 1: High Risk;
 - a. Standard Response Time: 2 hours;
 - b. Mitigated Response Time: 24 hours.
 2. Priority 2: Moderate Risk;
 - a. Standard Response Time: 48 hours;
 - b. Aggravated Response Time: 24 hours;
 - c. Mitigated Response Time: 72 hours.
 3. Priority 3: Low Risk;
 - a. Standard Response Time: 72 hours;
 - b. Aggravated Response Time: 48 hours;
 - c. Mitigated Response Time: 72 hours excluding weekends and Arizona state holidays.
 4. Priority 4: Potential Risk;
 - a. Standard Response Time: 7 days;
 - b. Aggravated Response Time: 72 hours excluding weekends and Arizona state holidays.
- B.** All response times are measured from the time that the CPS local office receives the report from the Child Abuse Hotline to the time action is taken to determine the current safety of the alleged victim.
- C.** To comply with the priority response time, entities other than CPS, such as law enforcement personnel, emergency personnel, or paramedics, may initially respond to a report.
- D.** If law enforcement or emergency personnel initially respond to a report, CPS shall respond and investigate the report no later than the mitigated response time for the designated priority.

Historical Note

Former Section R6-5-5505 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5506. Methods for Investigation of Reports

- A.** Upon receipt of a report, a CPS unit supervisor:
1. May aggravate or mitigate the response time, if the Child Abuse Hotline has not assigned a mitigating or aggravating factor, but shall not change any aggravating or mitigating factors assigned by the Hotline; and
 2. Shall assign 1 of the following dispositions:
 - a. Field investigation;
 - b. Alternative investigation under R6-5-5507;
 - c. Legally prohibited investigation. A federal, state statute, or court order prohibits CPS from investigating if, for example:
 - i. The alleged maltreatment occurs on a United States military base or Tribal reservation land, or
 - ii. A court orders CPS not to investigate; or
 - d. Alternative response, such as reports referred to Family Builders.
- B.** The CPS unit supervisor shall document the action taken and the disposition.

Historical Note

Former Section R6-5-5506 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-

making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5507. Alternative Investigation

- A.** Upon receipt of a report, a CPS unit supervisor may conduct an alternative investigation.
- B.** To conduct an alternative investigation, CPS shall contact a mandatory reporting source who is currently involved with the family and can provide information that:
1. The child and other children residing in the home are not:
 - a. Current victims of maltreatment, or
 - b. At risk of imminent harm; and
 2. The allegations are unsubstantiated.
- C.** A CPS administrator shall review and approve any decision to conduct an alternative investigation.
- D.** If information gathered during an alternative investigation indicates that an alleged victim may be at risk of harm, the CPS Supervisor shall immediately assign the case for field investigation.
- E.** CPS shall not conduct an alternative investigation if an allegation involves an alleged victim who is:
1. Already in Department custody,
 2. Currently the subject of an open CPS case,
 3. In a DES- or DHS-licensed or certified facility, or
 4. In a DES-licensed family foster home.

Historical Note

Former Section R6-5-5507 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5508. Conduct of a Field Investigation

- A.** When conducting a field investigation, a CPS Specialist shall determine:
1. The name, age, location, and current physical and mental condition of all children in the home of the alleged victim;
 2. Whether any child in the home has suffered maltreatment; and
 3. Whether any child in the home is at risk of maltreatment in the future.
- B.** A CPS Specialist shall investigate allegations using the following methods:
1. Interview the alleged victim;
 2. Interview the alleged victim's caregiver who allegedly committed the abuse;
 3. Interview other adults and children residing in the home;
 4. Interview other persons who may have relevant information, including the reporting source, medical personnel, relatives, neighbors, and school personnel;
 5. Review available documentation including medical and psychiatric reports, police reports, school records, and prior CPS files; or
 6. Consult with law enforcement.
- C.** A CPS Specialist may interview a child without prior parental consent under A.R.S. § 8-802(C)(2).
- D.** A CPS Specialist may exclude the alleged abuser from participating in an interview with the alleged victim, the alleged victim's siblings, or other children residing in the alleged victim's household.
- E.** Before interviewing a caregiver, a CPS Specialist shall:
1. Orally inform the caregiver of the rights and duties under A.R.S. § 8-803(B);
 2. Give the caregiver a written statement summarizing the same information; and
 3. Ask the caregiver to sign a written acknowledgment of receipt of the information.

- F.** A CPS Specialist may take temporary custody of a child under A.R.S. §§ 8-821(A) and (B) and 8-802(C)(4). The CPS Specialist shall take temporary custody of an alleged victim if the alleged victim needs to be examined and the caregiver will not consent to the examination.
- G.** If a CPS Specialist finds more allegations of maltreatment during the investigation, the CPS Specialist shall incorporate the allegations into the report and investigate under this Article.

Historical Note

Former Section R6-5-5508 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5509. Establishing Probable Cause of Child Maltreatment

To determine whether to recommend a substantiated allegation of maltreatment, the CPS Specialist shall consider all information gathered during the investigation, including:

1. Whether the alleged abuser or non-abusive caregiver admitted the maltreatment;
2. Whether a child provided a developmentally appropriate description of maltreatment;
3. Witness statements from persons other than the caregivers and the alleged victim;
4. Physical or behavioral signs of maltreatment or damage;
5. Medical opinions and opinions from treating professionals, including any conflict of opinion;
6. The consistency of the information provided; and
7. History of child maltreatment.

Historical Note

Former Section R6-5-5509 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5510. Investigation Findings; Required Documentation

After completing an investigation, a CPS Specialist shall:

1. Unsubstantiate the allegations or make a proposed finding that the allegation is substantiated based on whether the CPS Specialist finds probable cause to believe maltreatment occurred, and after considering the information listed in R6-5-5509;
2. Determine whether the family has any unresolved problems involving child maltreatment and needs further services;
3. Document in the case record the reason for the finding;
4. Include in the case record any oral and written statements or other documentation provided by a caregiver;
5. Notify the PSRT of a proposed substantiated allegation finding under A.R.S. § 8-811;
6. Enter an unsubstantiated allegation finding into the CHILDS Central Registry and send the caregiver written notice of the unsubstantiated allegation finding.

Historical Note

Former Section R6-5-5510 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5511. Ongoing Services; Imminent Harm Not Identified; Case Closure

- A.** If a finding is unsubstantiated or substantiated without unresolved problems, the CPS Specialist shall close the case.
- B.** If a finding is unsubstantiated or substantiated, and there is no risk of imminent harm to a child, but the family has unresolved

problems that create a potential for maltreatment, CPS shall determine whether to open the case for ongoing protective services if:

1. A family requests ongoing protective services, or
2. A dependency action is pending.

- C.** CPS shall offer a family voluntary protective services before filing a dependency action.

- D.** When CPS offers a family voluntary protective services, CPS shall:

1. Document the family's acceptance or refusal of services,
2. Document any services provided, and
3. Document any action that CPS has taken to ensure that a child is safe.

- E.** To determine how to proceed for ongoing services, CPS shall consider the following criteria:

1. Whether a family acknowledges past maltreatment or potential for future maltreatment,
2. Whether the services are available to help a family address risk factors, and
3. Whether a family is willing to cooperate with the provision of services.

Historical Note

Former Section R6-5-5511 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5512. Procedures for Substantiated Reports; Removal; Imminent Harm

- A.** If CPS recommends a substantiated finding of maltreatment, CPS shall determine whether the child can safely remain in the home or needs to be removed.

- B.** The following situations indicate imminent harm and require CPS to intervene as provided in R6-5-5513:

1. No caregiver is present and a child cannot care for himself or herself or for other children in the household;
2. A child has severe or serious nonaccidental injuries that require immediate medical treatment, such as:
 - a. Head injury, with risk of damage to the central nervous system;
 - b. Internal injuries;
 - c. An injury resulting in coma;
 - d. Multiple plane injuries indicative of battering;
 - e. Facial bruises;
 - f. Fractures or bruises in a nonambulatory child;
 - g. Instrumentation injury with risk of impairment; or
 - h. Immersion burns;
3. A child requires immediate medical treatment for a life-threatening medical condition or a condition likely to result in impairment of bodily functions or disfigurement, and the child's caregiver is not willing or able to obtain treatment;
4. A child is suffering from nutritional deprivation that has resulted in malnourishment or dehydration to the extent that the child is at risk of death or permanent physical impairment;
5. A doctor or psychologist determines that a child's caregiver is unable or unwilling to provide minimally adequate care;
6. The physical or mental condition of a child's caregiver endangers a child's health or safety, such as a caregiver who:
 - a. Exhibits psychotic behavior and fails to take prescribed medications,
 - b. Suffers from a deteriorating physical condition or illness, or

- c. Takes prescribed or nonprescribed drugs that result in a child being neglected;
 - 7. The home environment has conditions that endanger a child's health or safety, such as human or animal feces, undisposed-of garbage, exposed wiring, access to dangerous objects, or harmful substances that present a substantial risk of harm to the child;
 - 8. A doctor or psychologist has determined that:
 - a. A child's caregiver has emotionally damaged the child;
 - b. The child is exhibiting severe anxiety, depression, withdrawal, or aggressive behavior due to the emotional damage; and
 - c. The caregiver is unwilling or unable to seek treatment for the child; or
 - 9. A CPS Specialist has probable cause to believe that a caregiver has engaged in sexual conduct with a child or has allowed the child to participate in sexual activity with others.
- C. In situations not listed in subsection (B), a CPS specialist shall determine the risk of imminent harm and need for removal by:
 - 1. Doing a family assessment to identify family strengths and risk factors; and
 - 2. Evaluating all facts and circumstances surrounding a child and family situation, including the following:
 - a. Whether a law enforcement official or medical professional expresses concern about risk to the child victim if the child victim returns to or remains in the home;
 - b. The alleged abuser's behavior towards the child victim;
 - c. Other adults in the household's behavior towards the child victim;
 - d. Whether the child victim resides with a parent or other adult who is willing and able to protect the child;
 - e. The conditions of the home environment and whether those conditions threaten the child victim's safety or physical health;
 - f. Whether there has been a pattern of maltreatment, particularly a pattern of incidents of increasing severity;
 - g. The nature and severity of the alleged maltreatment;
 - h. Whether DES is able to provide services to the child or family to alleviate conditions or problems that pose a risk of maltreatment, without the need for removal;
 - i. Whether the child's caregiver refuses access to a child or declined an offer of in-home services;
 - j. The family's strengths and risk factors;
 - k. The child's current physical and mental condition; and
 - l. Whether the child victim has injuries that require immediate medical treatment.

Historical Note

Former Section R6-5-5512 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5513. Alternatives to Involuntary Removal; Voluntary Placement; Removal

- A. Before removing a child from home without the consent of the child's caregiver, CPS shall consider whether:

- 1. CPS may help the family obtain resources such as emergency food, shelter, clothing, or utilities, so that the child can safely remain in the home;
 - 2. CPS may enter into an agreement with the child's caregivers that provides for the alleged abuser to leave the home and for remaining family members to protect the child;
 - 3. The caregiver identifies a relative or friend who can temporarily care for the child without court intervention or orders;
 - 4. CPS may help the protective caregiver and the child leave the home of the alleged abuser;
 - 5. CPS may place the child in voluntary foster care under A.R.S. § 8-806.
- B. If a child is at risk of imminent harm and the alternative methods identified in subsection (A) will not eliminate the risk of harm, CPS shall take temporary custody of the child as provided in A.R.S. § 8-821.
- C. CPS shall document the placement alternatives considered and the reasons for not selecting the options listed in subsection (A).

Historical Note

Former Section R6-5-5513 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5514. Removal Review

- A. Under A.R.S. § 8-822(3), within 48 hours of removing a child and before filing a dependency petition, CPS shall have a removal review team assess alternatives to continued out-of-home placement and the need for CPS to file a dependency petition.
- B. The removal review team shall include the CPS specialist who conducted the investigation and removed the child and the CPS specialist's supervisor. The removal review team shall also include at least 1 other qualified professional such as a psychologist or counselor.
- C. The removal review team shall consider the factors listed in R6-5-5512 and R6-5-5513(A) to determine whether to return a child, pursue a voluntary placement option, or file a dependency petition.
- D. The team shall document, in the child's case record, alternatives considered and the reason for the action taken.
- E. Within 48 hours of removing a child, DES shall either file a dependency petition or return the child, as required by A.R.S. § 8-821.

Historical Note

Former Section R6-5-5514 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5515. Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency

- A. Before CPS investigates an allegation of maltreatment in a licensed child welfare agency ("agency"), the CPS Specialist shall advise the agency's chief executive officer, or that person's designee, of the following:
 - 1. The nature of the allegation,
 - 2. How CPS will conduct the investigation,
 - 3. The names of the agency staff members and children that the CPS Specialist plans to interview, and
 - 4. The rights listed in subsection (C).
- B. Notwithstanding subsection (A), CPS may conduct an unannounced investigation if:

1. The agency's chief executive officer is the subject of a maltreatment allegation, or
2. Prior notice of the investigation may jeopardize the safety of a child in the agency's care.

C. When CPS investigates an allegation of maltreatment at an agency, the agency may:

1. Seek legal counsel at any time during the investigation;
2. Present information about the allegation before CPS issues a finding; and
3. Receive:
 - a. An oral status report on the progress of an investigation not completed within 21 days,
 - b. A copy of the report with personally identifiable information redacted, and
 - c. Written notice of the investigation finding.

D. The Department shall document the investigation and findings in an agency's licensing file.

Historical Note

Former Section R6-5-5515 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5516. Procedures for Investigations of Out-of-Home Care Providers

A. In this Section, an "out-of-home care provider" means:

1. A child in the custody of the Department by court order or voluntary foster care under A.R.S. § 8-806 and placed with:
 - a. An unlicensed nonrelative,
 - b. An unlicensed relative,
 - c. A licensed family foster home,
 - d. A certified adoptive home; and
2. A family child care home provider certified by the Department under A.R.S. § 46-807.

B. A CPS Specialist shall notify the following of an investigation of an allegation of abuse or neglect by an out-of-home care provider:

1. The parent or legal guardian of each child in the home,
2. The case manager or supervisor for each child in the home,
3. The attorney and guardian ad litem for each child in the home, and
4. The provider's licensing or certification specialist.

C. When CPS investigates an allegation of sexual abuse, a CPS Specialist shall audiotape or videotape all interviews.

D. Unless a situation jeopardizes the safety of a child, a CPS Specialist shall consult with the following individuals before removing a child from an out-of-home care provider:

1. The child's case manager or supervisor,
2. The foster home licensing specialist or supervisor,
3. The ACYF District Program Manager, and
4. The Assistant Attorney General if the child is in the physical custody of the provider.

E. CPS shall notify the parent or legal guardian of each child in the provider's care, the out-of-home care provider, and each child's case manager of the investigation findings.

F. CPS shall hold a case conference in 3 days, if CPS intends to substantiate a report to discuss the investigation findings and to determine the Department's recommendations regarding licensing.

G. An out-of-home care provider may bring a person representing the provider's interests to the case conference after waiving the provider's right to confidentiality.

H. The Department shall document the investigation and findings in the case record.

Historical Note

Former Section R6-5-5516 repealed effective December 8, 1983 (Supp. 83-6). New Section adopted by final rule-making at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

R6-5-5517. Repealed

Historical Note

Former Section R6-5-5517 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5518. Repealed

Historical Note

Former Section R6-5-5518 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5519. Repealed

Historical Note

Former Section R6-5-5519 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5520. Repealed

Historical Note

Former Section R6-5-5520 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5521. Repealed

Historical Note

Former Section R6-5-5521 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5522. Repealed

Historical Note

Former Section R6-5-5522 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5523. Repealed

Historical Note

Former Section R6-5-5523 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5524. Repealed

Historical Note

Former Section R6-5-5524 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5525. Repealed

Historical Note

Former Section R6-5-5525 repealed effective December 8, 1983 (Supp. 83-6).

R6-5-5526. Repealed

Historical Note

Former Section R6-5-5526 repealed effective December 8, 1983 (Supp. 83-6).

Appendix 1. Pre-screening Cue Questions

1. May I have your name, phone number, and relationship to the child? (Assure the reporting source he or she can remain anonymous. Explain that CPS will not be able to contact him/her for additional information without a name and phone number.)
2. What is your concern about the child? How old is the child?
3. What is the family's home address? Does the child live there? If not, where can we locate the child, that is, school, day care, relative? Who is living in the home?
4. Do you know who abused or neglected the child? If so, who? (This includes staff of a licensed or certified DES facility or

foster or child care home or a licensed DHS Level I, II, or III Behavioral Health Treatment facility.) Do you know when he or she will see the child next?

5. Did the _____ (parent, guardian, or custodian) know about the abuse or neglect?
6. Is the _____ (parent, guardian, or custodian) letting the child see this person?

Historical Note

New Appendix 1 adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

Appendix 2. Cue Questions

IF IT IS DETERMINED TO HAVE ALL OF THE ELEMENTS OF A REPORT FOR FIELD INVESTIGATION (that is, a child victim, maltreatment by a parent, guardian, or custodian, and the child can be located), CHECK CPSCR AND GATHER REPORT DEMOGRAPHICS.

Include the address of the child, the name of the apartment complex, trailer park, and directions as needed.

PHYSICAL ABUSE CUE QUESTIONS:

1. Describe the injury (size, shape, color, and location).
2. Do you know when the injury occurred? Has abuse occurred before? How often does the abuse occur?
3. Did the child say what happened?
4. Do you know if the child was seen by a medical doctor? If so, what is the name and phone number of the doctor? If the source is a medical doctor, is the injury consistent with the explanation?

If the call concerns a licensed or certified DES facility, foster or child care home, or a DHS Level I, II, or III Behavioral Health Treatment facility, ask:

5. Did the injury occur as a result of restraint?
6. What kind of restraint was used?
7. Why was the child restrained?
8. Will the staff person have contact with the child or other children in the facility?
9. Do you know the name of the licensing specialist? If so, what is the name and phone number?
10. Do you know the name of the child's case manager? If so, what is the name and phone number?

EMOTIONAL ABUSE CUE QUESTIONS:

1. Specifically, what is the person doing (to have the impact on the child)?
2. Have you noticed a change in the child's behavior?
3. What signs or behaviors is the child exhibiting?
4. Do you think the child's behavior is related to what the parent, guardian, or custodian is doing? If so, how?
5. Do you know if the child has seen a medical doctor, psychologist, or mental health professional? If so, what is the name and phone number? Do you know the diagnosis?

NEGLECT CUE QUESTIONS:

A. INADEQUATE SUPERVISION

1. Is the child alone NOW? If yes, how long has the child been alone? Where is the person who is supposed to be watching the child? When will the person return? Have you called the police?
2. If the child is not alone, who is watching the child now? What are your concerns about the person who is watching the child?
3. Do you know how often and when this happens?
4. What happens when the child is alone or inadequately supervised?
5. Does this child know how to contact the parent, guardian, or custodian?

6. Does the child have emergency numbers and know how to use the phone?
7. Do you know if anyone is checking on the child? If so, what is the name and phone number? How often?

If the call concerns a licensed or certified DES facility, foster or child care home, or DHS Level I, II, or III Behavioral Health Treatment facility, ask:

8. What supervision was being provided at the time of the sexual conduct or physical injury between the children?
9. Did the facility or foster or child care home know that the child may physically or sexually assault another child?
10. Did the staff or foster or child care home person know that the child may physically or sexually assault another child?
11. What steps were being taken to prevent the child from assaulting other children?
12. What steps are being taken to restrict contact between the child and other children?
13. Do you know the name of the licensing specialist? If so, what is the name and phone number?
14. Do you know the name of the child's case manager? If so, what is the name and phone number?

B. SHELTER

1. When was the last time you saw the child or the home?
2. Describe any health or safety hazards where they live. Has anything happened to the child?
3. Do you know how long they have been in this situation?
4. Do you know why they live like this?

C. MEDICAL CARE

1. What are the child's symptoms?
2. Is the parent, guardian, or custodian aware of the problem?
3. Do you know when they last saw a medical doctor? Who was the medical doctor? If so, why?
4. Do you know the reasons the person is not getting medical care for the child?

If reporting source is a medical doctor or doctor's representative, ask only the following questions:

5. What is the medical or psychiatric condition or diagnosis of this child and when did it begin?
6. What medical care is needed?
7. What will happen if the child does not receive the medical care?
8. What are your concerns about the parent, guardian, or custodian response to the problem?

D. FOOD

1. What makes you believe the child is not getting enough food? Describe the physical condition of the child.
2. Do you know if someone else is feeding the child? If so, who?
3. When was the last time you saw the child or have you been in the home? If so, describe the food you saw.
4. Do you know if the child has seen a medical doctor? If so, what is the name and phone number?

E. CLOTHING

1. Describe what the child is wearing and the weather conditions.
2. What effect is it having on the child?

SEXUAL ABUSE CUE QUESTIONS:

1. Why do you think the child has been sexually abused or is at risk of sexual abuse (activities, physical signs, or behaviors)?
2. Who saw these activities, signs, or behaviors?
3. Has the child told anyone? If so, who and when?
4. What is the child saying about sexual abuse?
5. Do you know where and when this last occurred?
6. Do you know what contact this person has with the child?

7. Do you know if the child *has* seen a medical doctor? If so, what is the name and number?

ABANDONED CUE QUESTIONS:

1. Do you know where the parent is now?
2. When did the parent last have contact with the child?
3. When do you think the parent is coming back?
4. What arrangements did the parent make for care of this child?
5. How long are you able or willing to care for the child? Are there relatives available?
6. If so, what is the name, address, phone number?

DRUG-EXPOSED INFANTS CUE QUESTIONS:

1. Has the child or mother been tested? If so, what are the results?
2. What is the name of the medical doctor or hospital?
3. What is the parental history of drug use? (What drugs, when was last drug use, used during what trimester?)
4. What is the parental history of drug treatment?
5. Describe the medical and physical condition of the child?
 - a. Birth weight,
 - b. Gestational age,
 - c. Apgar score,
 - d. Prenatal care.
6. Have preparations been made in the home for the new baby?

NONSEXUAL EXPLOITATION CUE QUESTIONS:

1. Describe how the child is being exploited.
2. What reason was given for the exploitation?
3. How long has this been going on?

POTENTIAL ABUSE AND NEGLECT CUE QUESTIONS:

1. Describe behaviors (of the parent, guardian, custodian, or child) that give you reason to believe that abuse or neglect may occur.
2. Has abuse or neglect happened before? If so, when and where?
3. Has the _____ (parent, guardian, or custodian) expressed concerns about hurting or not being able to care for the child?

CLOSURE CUE QUESTIONS

1. Do you know what school or child care facility the child attends? If so, what is the name of the school or child care facility? Dismissal or pick-up time?
2. Has the child expressed concerns about going home? If so, what did the child say to you?
3. Has law enforcement been notified? DR or Badge number?
4. Does the child have any of these special needs or problems?
 - a. Abuse of drugs or alcohol,
 - b. Bizarre behavior,
 - c. Extremely angry or volatile,
 - d. Physically ill,
 - e. Mentally ill,
 - f. Language other than English.
5. Does the _____ (parent, guardian, or custodian) have any of these special needs or problems:
 - a. Abuse of drugs or alcohol,
 - b. Bizarre behavior,
 - c. Extremely angry or volatile,
 - d. Physically ill,
 - e. Mentally ill,
 - f. Language other than English.
6. Do you know if CPS or any other agency has been involved with this family?
7. If this report is assigned for field investigation, are there any issues we need to be aware of to ensure the worker's safety (guns, dogs)?

Historical Note

New Appendix 2 adopted by final rulemaking at 5 A.A.R. 444, effective January 15, 1999 (Supp. 99-1).

ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS**R6-5-5601. Definitions**

The definitions contained in A.R.S. §§ 8-531, 8-201, 8-807, R6-5-5501, and the following definitions apply in this Article:

1. "ACYF" means the Administration for Children, Youth and Families, an organizational unit within the Division of Children, Youth and Families, Department of Economic Security.
2. "Caregiver" means a child's parent, guardian, or custodian.
3. "Completed request" means a Request for Confidential Information form with all information completed as prescribed in R6-5-5603.
4. "CPS" means Child Protective Services, a program within the Administration for Children, Youth and Families, (ACYF) to receive and investigate allegations of child maltreatment and provide protective services as described in R6-5-5501(40).
5. "CPS Administrator" means the DES Administrator responsible for operation of CPS, or that person's designee, which may include the ACYF Field Operations Manager, the CPS District Program Manager ("DPM"), the CPS Assistant District Program Manager ("APM"), or the CPS Local Office Manager.
6. "Department" means the Arizona Department of Economic Security, which is sometimes referred to as "DES" or "ADES".
7. "Estimated processing fee" means an amount a requester must pay to the Department before the Department copies and redacts requested records and files.
8. "Information" means data contained in a hard copy case file or electronic case record.
9. "Maltreatment" means alleged abuse, neglect, abandonment, or exploitation of a child.
10. "Person about whom a report is made" means an alleged abusive caregiver or other person, or a child victim age 12 or older.
11. "Personally identifiable information" means information which specifically identifies a protected individual and includes:
 - a. Name;
 - b. Address;
 - c. Telephone or fax number;
 - d. Photograph;
 - e. Fingerprints;
 - f. Physical description;
 - g. Place, address, and telephone number of employment;
 - h. Social security number;
 - i. Tribal affiliation and identification number;
 - j. Driver's license number;
 - k. Auto license number;
 - l. Any other identifier that is specific to an individual; and
 - m. Any other information that would permit another person to readily identify the subject of the information.
12. "Processing fee" means the final amount a requester must pay to the Department for copying and redacting requested records and files, before the Department will release the copied records and files.

13. "Protected individual" means a person who is the subject of a CPS investigation and includes:
 - a. An alleged victim,
 - b. An alleged victim's sibling,
 - c. A parent,
 - d. A foster parent,
 - e. A child living with the alleged victim,
 - f. The person who made the report of child maltreatment, and
 - g. Any person whose health or safety would be endangered by disclosure of CPS information.
 14. "Redacting" means striking or blacking out personally identifiable information contained in CPS records or files on protected individuals so that no one can read the information.
 15. "Requester" means an individual or organization that has made a public records request for information from a CPS record or file.
 16. "Research requester" means an individual or organization that seeks CPS information for a research or evaluation project.
 17. "Workday" means Monday through Friday excluding Arizona state holidays.
- c. The name of the child's caregivers; and
 - d. The date of the CPS report or time-frame for the report;
4. Any other data that the requester believes will be likely to assist the Department in identifying the information requested, including the following:
 - a. The name of the child's siblings;
 - b. The child's social security number;
 - c. The name of the CPS Specialist handling the case; and
 - d. The location of the alleged maltreatment;
 5. A description of the specific information needed;
 6. A statement of the purpose for which the information is needed;
 7. The notarized signature of the requester, unless the information is released pursuant to a court order; and
 8. The address to which the requested information is to be mailed, or an indication of another method for handling the response.
- C. The requester shall send the request to a local Department office or to the address indicated on the form.
 - D. A person seeking information pursuant to A.R.S. § 8-807(C)(10),(D), or (F), shall also send the Department a processing fee in an amount determined under R6-5-5612.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5601 repealed, new Section R6-5-5601 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5601 recodified to A.A.C. R6-8-201 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5602. Scope and Application

- A. This Article governs public records requests for CPS information and all requests made under A.R.S. § 8-807.
- B. The Department shall handle any request or subpoena for information made by a party to a pending administrative proceeding, or civil, criminal, juvenile, probate, or domestic relations court proceeding, in accordance with the disclosure and discovery rules applicable to the particular proceeding or court.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5602 repealed, new Section R6-5-5602 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5602 recodified to A.A.C. R6-8-202 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5603. Procedures for Requesting Information

- A. A person who wishes to obtain information pursuant to A.R.S. § 8-807 shall comply with the requirements of this Section, and any applicable limitations and conditions in R6-5-5605, R6-5-5607, R6-5-5608, and R6-5-5609.
- B. The requester shall send the Department a completed information request form, as provided in subsections (C) and (D). The form shall include the following information:
 1. Requester's name, address, and telephone number;
 2. Name and title of the person signing the form;
 3. Name of the child victim who is the subject of the CPS report, with as much of the following information as the requester can provide on the child victim:
 - a. Other possible spellings, names, or aliases for the child;
 - b. Date of birth;

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5603 repealed, new Section R6-5-5603 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5603 recodified to A.A.C. R6-8-203 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5604. Procedures for Processing a Request for Information

- A. Upon receipt of a request for information, the Department shall determine whether the request is complete. If the request is incomplete, the Department shall either:
 1. Return the form to the requester with a statement explaining the additional information the Department needs to process the request; or
 2. Contact the requester to obtain the missing information.
- B. Upon receipt of a completed request, the Department shall stamp the receipt date on the form. The receipt date is the day that the receiving office designated on the form actually receives the completed request.
- C. Within 30 days of the receipt date, the Department shall provide the requester with 1 of the following written responses:
 1. A statement that the requested information does not exist;
 2. The requested information;
 3. A statement that the Department cannot provide the requested information within 30 days, the reason for the delay, and the anticipated time-frame for response; or
 4. A statement that the Department cannot legally release the requested information, with the statutory citation and the reason for denial.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5604 repealed, new Section R6-5-5604 adopted effective January 13, 1977 (Supp. 77-1). R6-5-5604 recodified to A.A.C. R6-8-204 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5605. Release of Information in Situations Requiring Immediate Action or Service to a Child

- A. When a person or entity entitled to receive records under A.R.S. § 8-807(C) requires information from a record or file in order to take immediate action on behalf of, or render service to, a child who is or may be the victim of maltreatment, the Department shall release the information without obtaining the form or fee required by R6-5-5603.
- B. Before releasing information pursuant to this Section, the Department shall verify that the person requesting information is a person entitled to receive information under A.R.S. § 8-807(C).
- C. The Department shall:
 - 1. Obtain the name and telephone number of the requester;
 - 2. Call the requester to verify:
 - a. That the person requesting information is a person entitled to receive information under A.R.S. § 8-807(C); and
 - b. That the requester needs the information for a purpose described in subsection (A).

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5604 renumbered as Section R6-5-5605 effective January 13, 1977 (Supp. 77-1). R6-5-5605 recodified to A.A.C. R6-8-205 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5606. Release of Report and Investigation Findings

- A. Under A.R.S. § 8-807(E), a person about whom a report is made who is not a party in a dependency or termination of parental rights proceeding may obtain a copy of a CPS report and investigation findings, including the following persons:
 - 1. An adult about whom a CPS report has been made;
 - 2. A child victim age 12 or older;
 - 3. A child's parent or legal guardian.
- B. The person requesting a copy of the CPS report and investigation findings shall submit a completed information request form which shall include the information listed in R-5-5603(B). Within 30 days of receipt of a completed information request form, the Department shall provide the requester with either:
 - 1. A copy of the report and investigation findings, after redacting information as required by A.R.S. § 8-807(E) and (G); or
 - 2. A written response indicating that the Department does not have the requested report or investigation findings.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5605 renumbered as Section R6-5-5606 effective January 13, 1977 (Supp. 77-1). R6-5-5606 recodified to A.A.C. R6-8-206 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5607. Release of Summary Information to a Person Who Reported Suspected Child Abuse and Neglect

- A. A person who reports alleged child maltreatment to CPS may contact CPS to determine the outcome of the report as permitted under A.R.S. § 8-807(H).
- B. After receiving a request and before releasing information, the Department shall verify that the person requesting information was the person who made the report as follows:
 - 1. Obtain the name and telephone number of the requester;
 - 2. Compare the requester's name with the name of the person listed as the reporter on the CPS report; and

- 3. Call the requester and advise whether the Department can legally honor the request.

- C. After verifying the identity of the requester, CPS shall give the person a summary of the outcome with the following information:

- 1. Disposition of the report;
- 2. Investigation findings, if available; and
- 3. A general description of the services offered or provided to the child and family.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5606 renumbered as Section R6-5-5607 effective January 13, 1977 (Supp. 77-1). R6-5-5607 recodified to A.A.C. R6-8-207 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-6-5608. Release of Information to a Research or Evaluation Project

- A. A person seeking information for a research or evaluation project shall send a written request and provide information required for a complete request, under R6-5-5603. A complete research request shall also include the following information:
 - 1. If the person works for a research organization:
 - a. The name of the organization, and
 - b. The organization's mission,
 - 2. A description of the research or evaluation project, and
 - 3. The funding source for the research or evaluation project.
- B. Upon receipt of a completed request from a research requester, the Department shall advise whether the Department can legally honor the request, and the estimated amount of the processing fee required under R6-5-5612.
- C. Upon receipt of the processing fee, the Department shall provide the requester with the expected time-frame for releasing the requested information.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5607 renumbered as Section R6-5-5608 effective January 13, 1977 (Supp. 77-1). R6-5-5608 recodified to A.A.C. R6-8-208 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5609. Release of Information to a Legislative Committee

- A. A legislative committee entitled to receive information under A.R.S. § 8-807(C)(12), shall send a written request for information to the Department Director, or the Director's designee.
- B. The written request shall include:
 - 1. The name of the committee,
 - 2. The purpose for which the information is sought; and
 - 3. The date by which the committee needs the information.
- C. The Department Director, or the Director's designee, shall evaluate all requests for information and determine whether to release information to a legislative committee.
- D. When releasing information to a legislative committee, the Department shall send the committee written notice that the information is confidential and shall not be further disclosed.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5608 renumbered as Section R6-5-5609 effective January 13, 1977 (Supp. 77-1). R6-5-5609 recodified to A.A.C. R6-8-209 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-6-5610. Release of Information to a State Official

- A. An Arizona state official entitled to receive information under A.R.S. § 8-807(C)(15) shall send a written request to the Department Director.
- B. The Director, or the Director's designee, shall verify:
 - 1. That the requesting state official is:
 - a. Responsible for administration of CPS; or
 - b. Responsible for oversight of CPS enabling or appropriating legislation; and
 - 2. That the requesting state official is seeking the information to carry out official functions.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5609 renumbered as Section R6-5-5610 effective January 13, 1977 (Supp. 77-1). R6-5-5610 recodified to A.A.C. R6-8-210 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5611. Release of Information to a Person Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect, or Abandonment Who Has Died

- A. An individual who requests records and files under A.R.S. § 8-807(C)(13), concerning an alleged victim of abuse, neglect, or abandonment who has died, shall send the Department a completed request on each child.
- B. Upon receipt of the request form the Department shall stamp the date and time of receipt and complete a record and location search.
- C. The Department shall notify the requester in writing of the estimated processing fee required under R6-5-5612. If the requester does not want to proceed, the requester shall send the Department written notice to cancel the search.
- D. Upon receipt of a cancellation notice, the Department shall return the estimated processing fee.
- E. Upon receipt of the estimated processing fee, the Department shall prepare the records and files within 30 work days from receipt of the estimated processing fee and notify the requester of the final processing fee for records and file preparation.
- F. After receipt of the final processing fee, the Department shall notify the requester and send the redacted records and files as indicated on the original request.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5610 renumbered as Section R6-5-5611 effective January 13, 1977 (Supp. 77-1). R6-5-5611 recodified to A.A.C. R6-8-211 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5612. Fees

- A. If a record production will result in a processing fee, the Department shall notify the requester of the estimated processing fee before copying any records. Within 10 days of the date of the estimate, the requester shall send the fee or advise the Department to terminate the request.
- B. When providing information to the persons entitled to receive information under A.R.S. § 8-807(C)(10), (D), or (F), the Department shall charge a fee of 25¢ per page.
- C. The fee per page covers the partial cost of:
 - 1. Staff time to research and collect the requested information;
 - 2. Staff time to review and redact information pursuant to A.R.S. § 8-807(D), (F), and (G);
 - 3. Administrative staff time to review and prepare the information to be submitted; and

- 4. Costs of copying supplies such as paper, toner, and use of equipment.

- D. The fee per page applies to both persons who obtain copies of files and persons who request to review files that must be redacted prior to review, under A.R.S. § 8-807(C)(10), (D), or (F).
- E. After the Department has prepared information for release, the Department shall prepare an itemized billing statement showing the document preparation costs and fees the requester must pay before the Department can release the records and files.
- F. The Department shall refund any prepaid estimated processing fees that exceed the final processing fee.

Historical Note

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5611 renumbered as Section R6-5-5612 effective January 13, 1977 (Supp. 77-1). R6-5-5612 recodified to A.A.C. R6-8-212 effective February 13, 1996 (Supp. 96-1). New Section adopted by final rulemaking at 5 A.A.R. 1804, effective May 18, 1999 (Supp. 99-2).

R6-5-5613. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5612 renumbered as Section R6-5-5613 effective January 13, 1977 (Supp. 77-1). R6-5-5613 recodified to A.A.C. R6-8-213 effective February 13, 1996 (Supp. 96-1).

R6-5-5614. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5613 renumbered as Section R6-5-5614 effective January 13, 1977 (Supp. 77-1). R6-5-5614 recodified to A.A.C. R6-8-214 effective February 13, 1996 (Supp. 96-1).

R6-5-5615. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5614 renumbered as Section R6-5-5615 effective January 13, 1977 (Supp. 77-1). R6-5-5615 recodified to A.A.C. R6-8-215 effective February 13, 1996 (Supp. 96-1).

R6-5-5616. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5615 renumbered as Section R6-5-5616 effective January 13, 1977 (Supp. 77-1). R6-5-5616 recodified to A.A.C. R6-8-216 effective February 13, 1996 (Supp. 96-1).

R6-5-5617. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5616 renumbered as Section R6-5-5617 effective January 13, 1977 (Supp. 77-1). R6-5-5617 recodified to A.A.C. R6-8-217 effective February 13, 1996 (Supp. 96-1).

R6-5-5618. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5617 renumbered as Section R6-5-5618 effective January 13, 1977 (Supp. 77-1). R6-5-5618 recodified to A.A.C. R6-8-218 effective February 13, 1996 (Supp. 96-1).

96-1).

R6-5-5619. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5618 renumbered as Section R6-5-5619 effective January 13, 1977 (Supp. 77-1). R6-5-5619 recodified to A.A.C. R6-8-219 effective February 13, 1996 (Supp. 96-1).

R6-5-5620. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5619 renumbered as Section R6-5-5620 effective January 13, 1977 (Supp. 77-1). R6-5-5620 recodified to A.A.C. R6-8-220 effective February 13, 1996 (Supp. 96-1).

R6-5-5621. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5620 renumbered as Section R6-5-5621 effective January 13, 1977 (Supp. 77-1). R6-5-5621 recodified to A.A.C. R6-8-221 effective February 13, 1996 (Supp. 96-1).

R6-5-5622. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5621 renumbered as Section R6-5-5622 effective January 13, 1977 (Supp. 77-1). R6-5-5622 recodified to A.A.C. R6-8-222 effective February 13, 1996 (Supp. 96-1).

R6-5-5623. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5622 renumbered as Section R6-5-5623 effective January 13, 1977 (Supp. 77-1). R6-5-5623 recodified to A.A.C. R6-8-223 effective February 13, 1996 (Supp. 96-1).

R6-5-5624. Recodified**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5623 renumbered as Section R6-5-5624 effective January 13, 1977 (Supp. 77-1). R6-5-5624 recodified to A.A.C. R6-8-224 effective February 13, 1996 (Supp. 96-1).

ARTICLE 57. REPEALED**R6-5-5701. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5701 repealed, new Section R6-5-5701 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5702. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5702 repealed, new Section R6-5-5702 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5703. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5703 repealed, new Section R6-5-5703 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5704. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5704 repealed, new Section R6-5-5704 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5705. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5705 repealed, new Section R6-5-5705 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5706. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5706 repealed, new Section R6-5-5706 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5707. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5707 repealed, new Section R6-5-5707 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5708. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5708 repealed, new Section R6-5-5708 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-5709. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4). Former Section R6-5-5709 repealed, new Section R6-5-5709 adopted effective November 5, 1984 (Supp. 84-6). Repealed effective April 9, 1998 (Supp. 98-2).

ARTICLE 58. FAMILY FOSTER PARENT LICENSING REQUIREMENTS**R6-5-5801. Definitions**

In addition to the definitions contained in A.R.S. §§ 8-201, 8-501, and 8-531, the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-546(A)(1).
2. "Abuse" means the infliction or allowing physical injury, impairment of bodily function or disfigurement, or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-223 and which is caused by the acts or omissions of an individual having care, [physical] custody and control of a child. Abuse shall include inflicting or allowing sexual abuse

- pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212. A.R.S. § 8-546(A)(2).*
3. "Adult" means a person age 18 years or older.
 4. "Applicant" means a person who submits a written application to the Licensing Authority or a licensing agency to become licensed, or to renew a license as a foster parent. An applicant means both spouses if the adult household caregivers are married, except for a person seeking licensure solely as an in-home respite foster parent.
 5. "Case plan" means a written document which is a distinct part of a child's case record, and which identifies the child's permanency goal and target date, desired outcomes, tasks, time frames, and responsible parties.
 6. "Child placing agency" or "placing agency" means:
 - a. The Department, a county probation Department, or the Administrative Office of the Arizona Supreme Court, which are all statutorily authorized to place children into out-of-home care; and
 - b. Any other person or entity authorized to receive children for care, maintenance, or placement in a foster home because the Department has licensed the person or entity as a child welfare agency pursuant to A.R.S. § 8-505.
 7. "Corrective action" means a plan that describes steps a foster parent must take to remedy violations of foster care requirements within a specified period of time.
 8. "CPS" means Child Protective Services, a Department program responsible for investigating reports of child maltreatment.
 9. "CPSCR" means the Child Protective Services Central Registry, a computerized database, which CPS maintains pursuant to A.R.S. § 8-546.03.
 10. "Department" or "DES" means the Department of Economic Security.
 11. "Developmentally appropriate" means an action which takes into account:
 - a. A child's age and family background;
 - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
 - c. A child's individual pattern and timing of growth, personality, and learning style.
 12. "De-escalation" means a method of verbal communication or non-verbal signals and actions, or a combination of signals and actions, that interrupts a child's behavior crisis and calms the child.
 13. "DHS" means the Department of Health Services.
 14. "Discipline" means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to generally accepted levels of social behavior.
 15. "Exploitation" means the act of taking advantage of, or making use of a child selfishly, unethically, or unjustly for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child pan-handle, steal, or perform other illegal activities.
 16. "Foster care requirements" mean the standards for lawful operation of a foster home as prescribed in A.R.S. § 8-501 et seq. and 6 A.A.C. 5, Article 58.
 17. "Household" means a group of people who regularly occupy a single residence.
 18. "Household member" means a person who resides in an applicant's or foster parent's household for 21 consecutive days or longer, or who resides in the household periodically throughout the year for more than a total of 21 days.
 19. "In-home respite foster parent" means an individual licensed to provide respite care in a licensed family foster home that is not that individual's own home.
 20. "License" means a document issued by the Licensing Authority to a foster parent which authorizes the foster parent to operate a foster home in compliance with foster care requirements.
 21. "Licensed medical practitioner" means a person who holds a current license or certification as a physician, surgeon, nurse practitioner or physician's assistant pursuant to A.R.S. §§ 32-1401 et. seq., Medicine and Surgery; §§ 32-1800 et. seq., Osteopathic Physicians and Surgeons; §§ 32-2501 et. seq., Physician's Assistant; and A.R.S. §§ 32-1601 et. seq. Nursing and A.A.C. R4-19-503, Registered Nurse Practitioner.
 22. "Licensing agency" means a person who or an entity which performs an investigative family study of an applicant for an initial or renewal foster home license, as prescribed in R6-5-5803 and R6-5-5812, and which monitors the foster home, as prescribed in R6-5-5815. "Licensing agency" includes the Department and may include county probation departments.
 23. "Licensing Authority" means a DES administrative unit which makes foster home licensing determinations, including issuance, denial, suspension, revocation, and imposition of corrective action.
 24. "Maltreatment" means abuse, neglect, exploitation, or abandonment, of a child.
 25. "Mechanical restraint" means:
 - a. An article, device, or garment that:
 - i. Restricts a child's freedom of movement or a portion of a child's body;
 - ii. Cannot be removed by the child; and
 - iii. Is used for the purpose of limiting the child's mobility;
 - b. But does not include an orthopedic, surgical, or medical device which allows a child to heal from a medical condition or to participate in a treatment program.
 26. "Neglect" has the same meaning ascribed to it in A.R.S. § 8-546(A)(7).
 27. "Parent or parents" means the natural or adoptive parents of the child. A.R.S. § 8-501(A)(8).
 28. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement, but does not include the firm but gentle holding of a child with no more force than necessary to protect the child or others from harm.
 29. "Professional foster care" means a foster family based model of care provided by an individual who has received specialized training to provide care and services within a support system of clinical and consultative services to special care children.
 30. "Professional foster home" means the licensed foster home of an individual or couple authorized to provide professional foster care.

31. "Receiving foster home" means a licensed foster home suitable for immediate placement of children when taken into custody or pending medical examination and court disposition. A.R.S. § 8-501(A)(9).
32. "Respite care" means the provision of short term care and supervision of a foster child to temporarily relieve a foster parent from the duty to care for the child.
33. "Respite foster parent" means a licensed foster parent authorized to provide respite care.
34. "Safeguard" means to take reasonable measures to eliminate the risk of harm to a foster child and to ensure that a foster child will not be harmed by a particular object, substance, or activity. Where a specific method is not otherwise prescribed in this Article, safeguarding may include:
 - a. Locking up a particular substance or item;
 - b. Putting a substance or item out of the reach of a child who is not mobile; or
 - c. Erecting a barrier which prevents a child from reaching a particular place, item, or substance;
 - d. Mandating the use of protective safety devices; or
 - e. Providing supervision.
35. "Service team" means the group of persons listed in R6-5-5828(A) who participate in the development and review of a child's case plan.
36. "Significant person" means a person who is important or influential in a child's life and may include a family member or close friend.
37. "Sleeping area" means a single bedroom or a cluster of 2 or more bedrooms located in an adjacent area of a dwelling.
38. "Special care child" means a foster child who has not achieved expected norms for the child's developmental stage in 1 or more of the following areas: physical, medical, mental, psychological, intellectual, emotional, and social. This includes a child who experiences difficulty in establishing or maintaining developmentally appropriate interpersonal relationships.
39. "Swimming pool" means any natural or man-made body of water used for swimming, recreational, or decorative purposes, which is greater than 12 inches in depth, and includes spas and hot tubs.
40. "Work day" means Monday through Friday between 8 a.m. and 5 p.m., excluding Arizona state holidays.
2. Personally identifying information on the applicant's household members, including:
 - a. Name,
 - b. Date of birth,
 - c. Social Security number, and
 - d. Relationship to applicant;
3. Personally identifying information on the applicant's children who do not live with the applicant, including emancipated children, as follows:
 - a. Name,
 - b. Current address,
 - c. Telephone number, and
 - d. Date of birth;
4. The applicant's monthly or yearly household budget, showing assets, obligations, debts, and income;
5. Medical statements for the applicant and any adult household member who will regularly care for foster children, showing that the applicant and household member meet the requirements prescribed in R6-5-5823(4); the statement shall:
 - a. Include a description of the person's general health, and identify any medical problem or physical condition that will prevent or limit the person from caring for a foster child, or that may negatively impact a foster child;
 - b. Include a list of all regularly prescribed medications and the purpose of each medication; and
 - c. Be signed and dated by a licensed medical practitioner who shall have examined the person within 6 months prior to the date of application for licensure;
6. Immunization records for each child household member;
7. A current statement and history of physical and mental health and treatment on the applicant and the applicant's household members, to the extent that such information has not already been provided in response to subsections (B)(5) and (6); the statement and history may be a self-declaration of illness and treatment;
8. Employment information, including names and addresses of prior employers and positions held during the last 10 years;
9. Family relationship and support system information on the applicant's family and family of origin;
10. If the applicant is employed outside the home, the applicant shall provide a statement explaining the child care arrangements the applicant would make for a foster child during the applicant's working hours;
11. If the applicant is self employed, or conducts a business activity within the home, a statement explaining how the activities related to this business will not interfere with the care of a foster child;
12. A description of:
 - a. The applicant's daily routine and activities; and
 - b. The applicant's hobbies, and any education or volunteer activities in which the applicant regularly participates;
13. A description of any spiritual or religious beliefs and practices observed in the applicant's home;
14. Information on administrative or judicial proceedings in which the applicant has been or is a party, including:
 - a. Proceedings involving allegations of child maltreatment;
 - b. Dependency actions;
 - c. Actions involving severance or termination of parental rights;
 - d. Child support enforcement proceedings;
 - e. Adoption proceedings;

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5801 repealed, new Section R6-5-5801 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5801 repealed, new Section R6-5-5801 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5802. Application for Initial License

- A. A person who wishes to become licensed as a foster parent shall apply to a licensing agency on a form specified by the licensing agency.
- B. An applicant shall provide the licensing agency with at least the following information on each applicant:
 1. Personally identifying information, including:
 - a. Name,
 - b. Date of birth,
 - c. Social Security number,
 - d. Ethnicity,
 - e. Telephone number,
 - f. Current address,
 - g. Length of Arizona residency, and
 - h. Current marital status and marital history;

- f. Criminal proceedings other than minor traffic violations;
 - g. Bankruptcy; and
 - h. Suspension, revocation, or denial of a license or certification;
 - 15. The name, address, and telephone number of at least 5 references who can attest to the applicant's character and ability to care for children; no more than 2 of the references may be related to the applicant by blood or marriage; for married applicants, at least 2 of the 5 references shall know the applicants as a couple;
 - 16. A description of the applicant's home and neighborhood;
 - 17. A statement from the applicant as to:
 - a. The number of foster children the applicant would consider for placement; and
 - b. The characteristics of foster children the applicant would consider for placement; and
 - c. The characteristics of children, if any, for whom the applicant does not want to provide foster care;
 - 18. A description of the applicant's prior experience, if any, as a foster parent, including:
 - a. The state in which the applicant provided foster care;
 - b. Whether the applicant was licensed, certified, or approved to provide care; and
 - c. Whether any disciplinary action was taken against the applicant;
 - 19. A description of the applicant's prior history of adoption certification, if any, including prior applications for certification, and the location and date of any certification denials;
 - 20. A description of the applicant's child care experience and child rearing practices;
 - 21. A statement from the applicant regarding the applicant's motivation for becoming a foster parent;
 - 22. A statement from the applicant describing how all other household members feel about the decision to foster children;
 - 23. A statement authorizing the licensing agency and the Licensing Authority to:
 - a. Verify the information contained in or filed with the application;
 - b. Perform background checks on the applicant and the applicant's household members, as prescribed in R6-5-5803 and R6-5-5807; and
 - c. Arrange for DHS to conduct a health and safety inspection of the applicant's home, as prescribed in A.R.S. § 8-504 and R6-5-5804;
 - 24. A statement from the applicant attesting to the truth of the information contained in the application; and
 - 25. The applicant's signature and date of application.
- C.** The applicant and all adult household members shall also submit to fingerprinting and a criminal history check as prescribed in A.R.S. § 46-141 and this subsection.
- 1. On a form provided by the Department, the applicant and each adult household member shall certify whether he or she has ever committed, is awaiting trial for, or has ever been convicted of any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
 - a. Sexual abuse of a minor or vulnerable adult;
 - b. Incest;
 - c. First or second degree murder;
 - d. Kidnapping;
 - e. Arson;
 - f. Sexual assault;
 - g. Sexual exploitation of a minor or vulnerable adult;
 - h. Commercial sexual exploitation of a minor or vulnerable adult;
 - i. Felony offenses within the previous 10 years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs;
 - j. Robbery;
 - k. A dangerous crime against children as defined in A.R.S. § 13-604.01;
 - l. Child abuse or abuse of a vulnerable adult;
 - m. Sexual conduct with a minor;
 - n. Molestation of a child or vulnerable adult;
 - o. Voluntary manslaughter; and
 - p. Aggravated assault.
 - 2. On a form provided by the Department, the applicant and each adult household member shall certify whether he or she has ever been convicted of, found by a court to have committed, or has committed, any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
 - a. A sex offense;
 - b. A drug-related offense;
 - c. A theft-related offense;
 - d. A violence-related offense;
 - e. Child neglect or neglect of a vulnerable adult; and
 - f. Contributing to the delinquency of a minor.
- D.** If an applicant applies to the Department as the licensing agency, the Department shall send the applicant a notice of administrative completeness or deficiencies, as prescribed by A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package as described in R6-5-5806. The Department shall send the notice after receiving the application and before expiration of the administrative completeness review time frame described in R6-5-5813(2)(a).
- E.** If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Department may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5802 repealed, new Section R6-5-5802 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5802 repealed, new Section R6-5-5802 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5803. Investigation of the Applicant

- A.** The licensing agency to which the applicant has applied shall investigate the applicant. Except as otherwise provided in subsection (E) for an in-home respite foster parent, the investigation shall include the measures listed in this Section.
- 1. A representative of the licensing agency shall personally interview the applicant and the applicant's household members; the interviews shall:
 - a. Occur on at least 2 separate occasions, at least 1 of which shall take place at the applicant's residence;
 - b. Comprise no less than 4 hours of face-to-face contact, at least 1 hour of which shall be at the applicant's residence;
 - c. Include at least 1 separate interview with each member of the applicant's household who is age 5 or older; and
 - d. Include at least 1 joint interview with both applicants if the applicants are married.

2. During the interviews described in subsection (A)(1), the investigator shall explore any instances of family problems and how the applicant has overcome problems in the applicant's current family and family of origin.
 3. The licensing agency shall obtain written statements from at least 3 of the applicant's personal references listed under R6-5-5802(B)(15) and shall personally contact (either in a face-to-face meeting or a telephone call) at least 1 of the references.
 4. The licensing agency shall verify the applicant's financial condition through a review of 1 or more of the documents listed in subsection (B)(8).
 5. The licensing agency shall investigate and evaluate the applicant's past experiences, if any, serving as a foster parent.
 6. The licensing agency shall assess the applicant and the family's commitment to providing foster care, and the time available to devote to the care of a foster child.
- B.** The licensing agency shall request, and the applicant shall provide, supporting documentation the licensing agency deems necessary to determine an applicant's fitness to serve as a foster parent and ability to comply with foster care requirements. The documentation may include the following:
1. A physician's statement regarding the physical health or immunization record of the applicant's household members;
 2. A statement from a psychiatrist or psychologist regarding the mental health of the applicant or the applicant's household members;
 3. Birth certificate;
 4. Marriage license;
 5. Driver's license and automobile registration;
 6. Dissolution or divorce papers and orders, including child support documentation;
 7. Military discharge papers;
 8. Tax returns, pay stubs, W-2 statements, and existing financial statements;
 9. Bankruptcy papers;
 10. Insurance policy information;
 11. Immigration or legal residency registration papers; and
 12. Documents related to or filed in judicial or administrative proceedings listed under R6-5-5802(B)(14).
- C.** Except as otherwise provided in subsection (E), the licensing agency shall verify that the applicant and adult household members have submitted a fingerprinting and criminal background form as prescribed in R6-5-5802(C).
- D.** The licensing agency shall document all personal contacts made, and all information obtained during the investigation.
- E.** When a person is seeking licensure solely as an in-home respite foster parent, the licensing agency is not required to:
1. Interview the applicant's spouse and other household members;
 2. Conduct the applicant's interview at the applicant's home;
 3. Verify the applicant's financial condition as required by subsection (A)(4) and R6-5-5805(B)(7);
 4. Obtain supporting documentation for the applicant's spouse or other household members as required by this Section; or
 5. Document information on the applicant's spouse and household members in the investigative report or application package as required by R6-5-5805 and R6-5-5806.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).
 Amended effective August 15, 1979 (Supp. 79-4).
 Former Section R6-5-5803 repealed, new Section R6-5-

5803 adopted effective April 1, 1981 (Supp. 81-2).
 Former Section R6-5-5803 repealed, new Section R6-5-5803 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5804. Inspection of the Foster Home; DHS Inspection Report

- A.** The licensing agency shall contact the Department of Health Services (DHS) to request that a DHS representative:
1. Inspect the foster home, as prescribed in A.R.S. § 8-504 and this Section; and
 2. Issue a report describing whether the foster home satisfies foster care requirements.
- B.** The applicant shall cooperate with the DHS representative by making the home available for inspection and allowing the DHS representative unrestricted access to the entire foster home and the surrounding premises to perform the following checks on the systems, equipment, and conditions:
1. Check the home's heating, cooling, ventilation and lighting systems, and major appliances;
 2. Look at furniture, fixtures, and equipment for evidence of loose hardware, rusting parts, and other damage;
 3. Check walls, ceilings, and floors for evidence of flaking paint or plaster, loose tiles, boards, and panels, and exposed or unsafe wiring that may pose a danger or health risk to a child;
 4. Check the home and surrounding premises for evidence of dirt, animal waste, and vermin;
 5. Check whether the sewage disposal system functions and is in good repair;
 6. Check the system, method, and timing for refuse and waste storage and removal;
 7. Check whether dangerous objects, materials, or conditions, have been locked, safeguarded, or removed as prescribed in this Article;
 8. Determine whether the home has the equipment and space prescribed in R6-5-5838 through R6-5-5846.
- C.** The DHS representative shall prepare a written report of the inspection and send a copy to the licensing agency.
- D.** To determine if a foster home and its surrounding premises are safe, sanitary, and in good repair, the licensing agency or Licensing Authority shall evaluate the DHS written report to determine whether the home has any natural or man-made conditions that pose a risk of harm to a foster child, and whether a foster parent has taken or can take reasonable measures to eliminate that risk of harm and ensure that a foster child will not be harmed by a particular object, substance, or activity.
- E.** This Section does not apply to a person seeking licensure solely as an in-home respite foster parent.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5804 repealed, new Section R6-5-5804 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5804 repealed, new Section R6-5-5804 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5805. Investigative Report and Licensing Recommendation

- A.** The licensing agency shall summarize the results of the investigation in a written report, which shall include:
1. A recommendation to grant or deny a license;
 2. Any recommendations for terms, conditions, or limitations to be placed on the license.
- B.** In determining whether to recommend that a license be granted or denied, the licensing agency and Licensing Authority shall consider all information acquired during the investigation, and all factors bearing on the applicant's fitness to

foster a child and comply with foster care requirements including:

1. Instances of family problems in the applicant's current family or family of origin, including whether the applicant was maltreated as a child, and the applicant's success in overcoming those problems;
 2. The applicant's past history of parenting or caring for children;
 3. The length and stability of the applicant's marital relationship, if applicable;
 4. The applicant's age and health;
 5. Past, significant disturbances or events in the applicant's immediate family, such as involuntary job separation, bankruptcy, divorce, or death of spouse, child, or parent;
 6. Past criminal history or record of child maltreatment for the applicant or the applicant's household members;
 7. The applicant's financial stability, exclusive of anticipated foster care maintenance payments, and ability to financially provide for a foster child;
 8. The applicant's history of providing financial support to the applicant's other children, including compliance with court ordered child support obligations; and
 9. The DHS report on the foster home and whether the applicant has corrected any deficiencies or problems noted in the report.
- C. The investigative summary shall specifically note any instances where an applicant has been:
1. Charged with, been convicted of, pled no contest to, or is awaiting trial on charges of an offense listed in R6-5-5802(C); and
 2. A party to an action for dependency or termination of parental rights.
- D. R6-5-5805(B)(3), (7), and (9) do not apply to a person seeking licensure solely as an in-home respite foster parent.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5805 repealed, new Section R6-5-5805 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5805 repealed, new Section R6-5-5805 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5806. Complete Application Package: Contents

- A. The licensing agency shall send a complete application package to the Licensing Authority for consideration.
- B. A complete application package includes the following:
1. A copy of the applicant's completed application form and criminal history certification form containing the information prescribed in R6-5-5802(B) and (C);
 2. The investigative report, as prescribed in R6-5-5805;
 3. Evidence that the applicant and adult household members have been fingerprinted and their fingerprints subjected to a criminal history check;
 4. Evidence that the applicant has completed the training prescribed by A.R.S. § 8-509(B) and R6-5-5825(A), or a statement of hardship as prescribed in R6-5-5810; and
 5. Evidence that the applicant's dwelling has passed the health and safety inspection prescribed by A.R.S. § 8-504 and R6-5-5804.
- C. Upon receipt of an application package from a licensing agency other than the Department, the Licensing Authority shall:
1. Determine whether the application is complete; and
 2. Send the applicant and the licensing agency a notice of administrative completeness or deficiencies, as prescribed by A.R.S. § 41-1074, within the administrative

completeness review time frame described in R6-5-5813(1)(a).

- D. If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the licensing agency may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Amended as an emergency effective May 28, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former Section R6-5-5806 repealed, new Section R6-5-5806 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5806 repealed, new Section R6-5-5806 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5807. CPSCR Check; Additional Investigation by Licensing Authority

- A. The Licensing Authority shall conduct a CPSCR check on the applicant and, with the exception of an in-home respite foster parent applicant, on all household members for reports of child maltreatment.
- B. Upon receipt of a complete application package, as prescribed in R6-5-5806, the Licensing Authority may do additional investigation, as prescribed in this Section, if the Licensing Authority needs additional information in order to determine the applicant's fitness to serve as a foster parent, and ability to comply with foster care requirements.
1. The Licensing Authority may directly obtain information by:
 - a. Interviewing the applicant, either in-person or telephonically;
 - b. Contacting additional references;
 - c. Verifying information provided in the application package, including past history of licensure as a foster parent;
 - d. Visiting the applicant's home; and
 - e. Requesting additional supporting documentation as prescribed in R6-5-5803(B).
 2. The Licensing Authority may contact the licensing agency and request that the licensing agency obtain additional information, as prescribed in subsection (B)(1).

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2). Former Section R6-5-5807 repealed, new Section R6-5-5807 adopted effective April 1, 1981 (Supp. 81-2). Former Section R6-5-5807 repealed, new Section R6-5-5807 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5808. License: Form; Issuance; Denial; Term; Termination

- A. Within 30 days of receiving a complete application, the Licensing Authority shall issue a written licensing decision.
1. If the Licensing Authority grants the license, the Licensing Authority shall send the license with the notification letter. The license shall be in the name of the applicant and the foster home location as identified in the application. The license shall specify the number, age, and gender of children the foster home may accept.
 2. The Licensing Authority may place terms on the license as to the type of child the foster home may accept for placement. Such terms may include the following:
 - a. A restriction that the foster home can accept only a specifically named child or specifically named children; and

- b. A provision that the home can provide a particular service, or accept children with particular behavior problems or physical conditions.
- 3. A license for a person being licensed solely as an in-home respite foster parent shall include only the licensee's name and the type of care, but no specific location or other terms.
- 4. If the Licensing Authority denies the license, the notice shall include the reasons for the denial, with a statement of the applicant's right to appeal the licensing decision, as prescribed in R6-5-5821.
- B.** A license expires 1 year from the date of issuance. If a foster parent receives a provisional license as prescribed in R6-5-5810, and the provisional license is converted to a regular license during the licensing year, the regular license shall expire 1 year from the date the provisional license was issued.
- C.** A foster parent shall not transfer or assign a license. A license expires if the foster parent moves to a different dwelling unless the licensing agency has first notified the Licensing Authority of the planned move or a foster parent has requested an amendment to the license as prescribed in R6-5-5814. This requirement does not apply to a person licensed solely as an in-home respite foster parent.
- D.** Issuance of a license does not guarantee placement of a foster child.
- E.** A license terminates when:
 - 1. The license expires by its own terms and is not renewed;
 - 2. The Licensing Authority revokes the license pursuant to disciplinary proceedings as prescribed in R6-5-5819;
 - 3. The foster parent moves out of state; or
 - 4. The foster parent voluntarily surrenders the license.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).
 Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5808 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5809. Provisional License

Notwithstanding any other provision of this Article, the Licensing Authority may issue a provisional license to a foster parent who has not completed training, when the Licensing Authority makes a finding of hardship as prescribed in A.R.S. § 8-509(D). The Licensing Authority may find a condition of hardship when failure to issue a provisional license would result in displacement of a child or the inability to place a particular child.

- 1. The term of a provisional license shall not exceed 6 months,
- 2. A provisional license is not renewable.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).
 Amended Subsection (G) as an emergency effective March 12, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-2). Amended effective August 15, 1979 (Supp. 79-4). Amended as an emergency effective May 28, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5809 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5810. Application for License Renewal

- A.** At least 60 days before the expiration date of a license, the licensing agency shall send a foster parent a notice of license expiration.
- B.** A foster parent may apply to a licensing agency for license renewal by submitting a complete renewal application to the

licensing agency at least 30 days before the expiration of the current license.

- C.** A complete renewal application shall contain the following information:
 - 1. A description of any changes to the information provided in the original application or last renewal application, including changes in personal, family, social, medical, or financial circumstances;
 - 2. At least once every 3rd year following original licensure, a licensed medical practitioner's statement on the physical health of the foster parent and any household members who regularly care for children;
 - 3. Evidence that the foster parent has obtained the annual training required by A.R.S. § 8-509(C); and
 - 4. The statements, signature, and date prescribed in R6-5-5802(B)(23) through (25).
- D.** A foster parent shall submit copies of the supporting documents listed in R6-5-5803(B) if so requested by the licensing agency.
- E.** The foster parent and adult household members shall comply with any investigative requirement for fingerprint clearance.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).
 Repealed effective April 1, 1981 (Supp. 81-2). New Section R6-5-5809 adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5811. Renewal Investigation; Licensing Report and Recommendation

- A.** A licensing agency that receives a renewal application shall conduct a face-to-face interview with the foster parent at the foster parent's residence. The licensing agency is not required to conduct the interview of a person licensed solely as an in-home respite foster parent at the person's residence. During the interview, the licensing agency shall discuss the following:
 - 1. The foster parent's experiences in serving as a foster parent during the expiring licensing year;
 - 2. Any changes identified in the renewal application; and
 - 3. Any complaints made against the foster parent during the expiring licensing year.
- B.** The licensing agency shall obtain any supplemental information the agency needs to determine the foster parent's continuing fitness to serve as a foster parent.
- C.** The licensing agency shall request a statewide criminal history records information check every year for the foster parent and, with the exception of an in-home respite foster parent, all adult household members.
- D.** The licensing agency shall request that DHS perform a health and safety inspection of the foster parent's home, as prescribed in R6-5-5804, at least once every 3rd year following original licensure. This inspection is not required of a person licensed solely as an in-home respite foster parent.
- E.** The licensing agency shall summarize the results of the renewal investigation in a report and make a licensing recommendation as prescribed in R6-5-5805. The report shall explain any complaints, as described in R6-5-5816, R6-5-5817, and R6-5-5818, made against the foster parent during the expiring license period.
- F.** No less than 15 working days before the date that the applicant's current license expires, the licensing agency shall provide the Licensing Authority with a complete renewal application as prescribed in R6-5-5810, and the agency's renewal investigation report as prescribed in R6-5-5811.

Historical Note

Adopted effective March 30, 1977 (Supp. 77-2).
 Repealed effective April 1, 1981 (Supp. 81-2). New Sec-

tion R6-5-5811 adopted effective January 10, 1997
(Supp. 97-1).

R6-5-5812. Renewal License

- A.** The Licensing Authority shall process a renewal application package following the procedures described in R6-5-5806(C), R6-5-5807, and R6-5-5808.
- B.** In determining whether to renew a license, the Licensing Authority shall consider the renewal application package, and the foster parent's past record of service, including conduct during all prior licensing periods.
- C.** The Licensing Authority may renew a foster parent's license when the foster parent:
 - 1. Demonstrates the ability to fulfill foster care requirements,
 - 2. Has complied with foster care requirements during prior licensing periods, and
 - 3. Has cooperated with the licensing agency in providing the information required for license renewal.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5813. Licensing Time Frames

For the purpose of A.R.S. § 41-1073, the Department has adopted the licensing time frames listed in this Section.

- 1. Initial applications submitted to a licensing agency other than the Department: When a person applies for foster parent licensure through a licensing agency other than the Department, and the licensing agency submits the completed application package to the Licensing Authority on behalf of the applicant, the licensing time frames are:
 - a. Administrative completeness review time frame: 30 days;
 - b. Substantive review time frame: 30 days; and
 - c. Overall time frame: 60 days.
- 2. Initial application submitted to the Department as the licensing agency: When a person applies directly to the Department for foster parent licensure, and the Department performs the activities described in R6-5-5803 through R6-5-5806, the licensing time frames are:
 - a. Administrative completeness review time frame: 90 days;
 - b. Substantive review time frame: 30 days; and
 - c. Overall time frame: 120 days.
- 3. Renewal applications submitted to a licensing agency other than the Department: When a person applies for renewal of a foster parent license through a licensing agency other than the Department, and the licensing agency submits the completed renewal application package to the Licensing Authority on behalf of the applicant, the licensing time frames are:
 - a. Administrative completeness review time frame: 21 days;
 - b. Substantive review time frame: 21 days; and
 - c. Overall time frame: 42 days.
- 4. Renewal applications submitted to the Department as the licensing agency: When a person applies directly to the Department for renewal of a foster parent license, and the Department performs the activities described in R6-5-5812, the licensing time frames are:
 - a. Administrative completeness review time frame: 40 days;
 - b. Substantive review time frame: 20 days; and
 - c. Overall time frame: 60 days.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5814. Amended License; Change in Household Members

- A.** The following changes require a license amendment :
 - 1. A change in any circumstances or conditions placed on the license, as prescribed in R6-5-5808(A)(2);
 - 2. Expanded or reduced capacity of the foster home;
 - 3. A move to a different residence;
 - 4. The divorce of the foster parent, if the divorce changes any circumstance or condition placed on the license;
 - 5. Marriage of the foster parent;
 - 6. The death of the foster parent's spouse if the death changes any circumstance or condition placed on the license; and
 - 7. A change of name.
- B.** The foster parent may request a license amendment or the licensing agency may initiate the amendment in response to an observed change. The Licensing Authority may issue an amended license to reflect a change in circumstances when the change does not cause the foster parent or foster home to fall out of compliance with foster care requirements.
- C.** If the foster parent has moved to a different residence or remodeled an existing residence, the Licensing Authority shall not issue an amended license until the different or remodeled residence has passed a health and safety inspection as prescribed in R6-5-5804.
- D.** An amended license expires at the end of the foster parent's current licensing year.
- E.** If the foster parent adds a household member during the course of a licensing year, the foster parent shall:
 - 1. Obtain prior approval from the licensing agency;
 - 2. Ensure that a new adult household member submits a criminal history certification and submits to fingerprinting as prescribed in R6-5-5802(C), within 10 work days of the member's arrival;
 - 3. Ensure that a new child household member obtains any missing, routine immunizations within 30 calendar days of the member's arrival; and
 - 4. Cooperate in additional interviews and submit additional documentation that the licensing agency or Licensing Authority may require to determine whether the addition of the new member will cause the foster parent to fall out of compliance with foster care requirements.
- F.** In determining whether to approve the addition of the new household member, the licensing agency shall consider:
 - 1. The relationship of the new household member to the foster parent;
 - 2. The length of time the foster parent has known the new household member;
 - 3. The background of the new household member including any criminal history;
 - 4. The financial arrangements, if any, between the foster parent and the new household member;
 - 5. What, if any, child care responsibilities the new household member may have;
 - 6. Whether the new household member has any physical or emotional conditions that present a risk to foster children and current household members; and
 - 7. Whether the home will still meet the equipment and space requirements prescribed in R6-5-5838 through R6-5-5846 with the addition of the new household member.
- G.** If the foster parent marries during the course of a licensing year:
 - 1. The foster parent's spouse shall submit an application for a license as prescribed in R6-5-5802 and R6-5-5803;

2. The foster parent's spouse shall be investigated in accordance with R6-5-5803, R6-5-5805, R6-5-5806, R6-5-5807, R6-5-5823, and R6-5-5824; and
 3. The foster parent shall comply with subsection (E) and with subsection (C) if the foster parent moves.
- H.** A person licensed solely as an in-home respite foster parent is exempt from the requirements of subsections (B)(2) and (3), (C), (E), (F), and (G).

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5815. Monitoring the Foster Home and Family

- A.** A licensing agency shall monitor its foster homes.
- B.** Monitoring activities may include the following:
1. Announced and unannounced visits to the foster home;
 2. Interviews with the foster parent and household members over age 5;
 3. Interviews with foster children placed with a foster parent, if developmentally appropriate; any interviews with a foster child may occur with the foster child separated from the foster parent; and
 4. A review of any records a foster parent is required to maintain.
- C.** A foster parent shall cooperate with monitoring requirements by:
1. Making the foster home available for inspection, and
 2. Participating in interviews and permitting interviews with household members.
- D.** When a licensing agency finds a violation of a foster home requirement, the licensing agency shall orally notify the Licensing Authority of the violation, and shall follow the oral report with a written report that shall include a recommendation for any licensing action or a corrective action plan, as prescribed in R6-5-5818 and R6-5-5819.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5816. Investigation of Complaints About a Foster Home

- A.** When a licensing agency receives a complaint about a foster home or licensee, the licensing agency shall:
1. Immediately report allegations of child abuse, neglect, or maltreatment to Child Protective Services Central Intake as prescribed in A.R.S. § 13-3620; and
 2. Report all complaints to the Licensing Authority within 5 days and investigate all complaints, not reported to CPS, as prescribed in this Section.
- B.** An investigation may include:
1. Interviews with the complaining party and members of the foster home;
 2. Inspections of the foster parent's records and documents related to the issues raised in the complaint;
 3. Interviews of witnesses to the matters at issue; and
 4. Any other activities necessary to substantiate or refute the complaint.
- C.** The licensing agency shall complete the investigation within 60 days. If the investigation can not be completed within 60 days, the licensing agency shall notify the Licensing Authority and provide a date for completion of the investigation.
- D.** When the investigation is completed, the licensing agency shall send the Licensing Authority a written summary of the results.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5817. Licensing Authority Action On Complaints

After the licensing agency reports the results of its investigation, the Licensing Authority shall determine what action to take against a licensee, as prescribed in this Section.

1. If the licensee did not violate foster care requirements, the Licensing Authority shall take no further action.
2. If the licensee violated a foster care requirement, but has corrected the problem giving rise to the violation, the Licensing Authority shall record the incident in the licensing file, and may take no further action.
3. If the licensee violated a foster care requirement and there is reasonable cause to believe that the licensing violation is continuing or may reoccur, the Licensing Authority shall take licensing action as prescribed in R6-5-5819, or require corrective action as prescribed in R6-5-5818.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5818. Corrective Action

- A.** If a deficiency giving rise to a substantiated complaint is correctable within a specified period of time and does not jeopardize the health or safety of a foster child, the Licensing Authority, in consultation with the licensing agency, may place the foster parent on a corrective action plan to remedy the deficiency.
- B.** In determining whether to require corrective action, the Licensing Authority shall consider the following criteria:
1. The nature of the violation;
 2. Whether the violation can be corrected;
 3. Whether the foster parent understands the violation and shows a willingness and ability to participate in corrective action;
 4. The length of time required to implement corrective action;
 5. Whether the same or similar violations have occurred on prior occasions;
 6. Whether the foster parent has had prior corrective action plans, and, if so, the foster parent's success in achieving the goals of the plan;
 7. The foster parent's history as a foster parent; and
 8. Other similar or comparable factors demonstrating the foster parent's ability and willingness to follow through with a corrective action plan and avoid future violations.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5819. License Denial, Suspension, and Revocation

- A.** The Licensing Authority may deny, suspend, or revoke a license when:
1. An applicant or licensee has violated or is not in compliance with foster care requirements, Arizona state or federal statutes, or city or county ordinances or codes;
 2. An applicant or licensee refuses or fails to cooperate with the Licensing Authority in providing information required by these rules or any information required to determine compliance with these rules;
 3. An applicant or licensee misrepresents or fails to disclose material information to the Licensing Authority, the licensing agency, or a placing agency regarding qualifications, experience, or performance of duties;
 4. An applicant or licensee is unable to meet the physical, emotional, social, educational, or psychological needs of children; or
 5. A licensee fails to comply with a corrective action plan.
- B.** In determining whether to take disciplinary action against a licensee, or to grant or renew a license, the Licensing Authority

ity may consider the applicant or licensee's past history from other licensing periods, and shall consider a repetitive pattern of violations of applicable child welfare or foster care rules or statutes, as evidence that a license applicant or licensee is unable or unwilling to meet the needs of children.

- C. The Licensing Authority shall deny a license when an applicant, licensee, or household member has been convicted of or is awaiting trial on the criminal offenses listed in R6-5-5802(C)(1) in Arizona or the same or similar offenses in other jurisdictions.
- D. The Licensing Authority may deny a license when an applicant, licensee, or household member has been convicted of, found by a court to have committed, or is reasonably believed to have committed any criminal offense, other than those listed in R6-5-5802(C)(1). To determine whether the criminal history of an applicant, licensee, or household member affects a person's fitness to be a licensee, the Licensing Authority shall consider all relevant factors, including the following:
 - 1. The extent of the person's criminal record;
 - 2. The length of time which has elapsed since the offense was committed;
 - 3. The nature of the offense;
 - 4. The mitigating circumstances surrounding the offense;
 - 5. The degree of participation by the person in the offense;
 - 6. The extent of the person's rehabilitation, including:
 - a. Completion of probation or parole;
 - b. Whether the person has made restitution or paid compensation for the offense;
 - c. Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling; and
 - d. Personal references attesting to the person's rehabilitation.
- E. The Licensing Authority may deny, suspend, or revoke a license if the applicant, licensee, or household member is, or resides with, a person who has a record of substantiated or undetermined child maltreatment in this state or any other jurisdiction. To determine whether an applicant, licensee, or household member's history of child maltreatment affects a person's fitness to serve as a foster parent, the Licensing Authority shall consider all relevant factors, including, but not limited to, the following:
 - 1. Whether the person was subjected to child maltreatment in his or her family of origin;
 - 2. The extent of the person's child maltreatment record;
 - 3. The length of time which has elapsed since the maltreatment occurred;
 - 4. The nature of the maltreatment;
 - 5. The circumstances surrounding the maltreatment;
 - 6. The degree to which the person participated in the maltreatment;
 - 7. The extent of the person's rehabilitation;
 - 8. Whether the person is on probation or parole; and
 - 9. Whether legal proceedings were initiated as a result of the maltreatment.
- F. The person seeking to establish fitness to be a licensee under subsection (D) has the burden of proving mitigating circumstances, indirect involvement, and the completion of probation or parole.
- G. The Licensing Authority shall not deny, suspend, or revoke the license of an in-home respite foster parent based on the actions of the foster parent's household members as identified in (C), (D), and (E) unless such actions interfere with the foster parent's ability to comply with this Article or relate to any child for whom the foster parent provides respite care.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5820. Adverse Action; Notice; Effective Date

- A. When the Licensing Authority denies, suspends, or revokes a license, the Licensing Authority shall send a written, dated notice of the action by certified mail to:
 - 1. The applicant or licensee;
 - 2. The licensing agency; and
 - 3. The placing agency for any child placed with the licensee at the time of the action.
- B. The notice shall specify:
 - 1. The action taken and the date the action will be effective;
 - 2. A citation to the legal authority, and a description of the reasons supporting the action; and
 - 3. The procedures by which the applicant or licensee may contest the action taken, and the time periods in which to do so.
- C. A revocation is effective:
 - 1. Twenty-one days after the postmark date of the revocation notice; or
 - 2. If the licensee appeals the revocation, on the date that an administrative hearing officer issues a written decision affirming the revocation.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5821. Appeals

- A. An applicant or licensee may appeal the denial, suspension, or revocation of a license as prescribed in 6 A.A.C. 5, Article 75. Imposition of a provisional license or a corrective action plan is not appealable.
- B. To appeal, an applicant or licensee shall file a written notice of appeal with the Licensing Authority no later than 20 days from the date of the notice prescribed in R6-5-5820(A) and (B).
- C. The notice of appeal shall specify the action being appealed and a statement of why the Licensing Authority's action was wrong.
- D. Appeals from the decision of a hearing officer are governed by A.R.S. §§ 41-1992(D) and 41-1993 and A.A.C. R6-5-7518 through R6-5-7520.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

Amended June 4, 1998 (Supp. 98-2).

R6-5-5822. Alternative Methods of Compliance

- A. The Licensing Authority, in consultation with the Attorney General's office, may substitute an alternative method of compliance for a foster care requirement contained in this Article and not otherwise required by law if the following conditions are met:
 - 1. The Licensing Authority, in consultation with the licensing or placing agency, determines that placement in the foster home requesting an alternative method of compliance is in the best interests of a particular foster child; and
 - 2. The purpose of the requirement being replaced is fulfilled through the alternative method of compliance.
- B. If the Licensing Authority approves an alternative method of compliance for a foster care requirement contained in this Article, the Licensing Authority shall make written findings of fact and conclusions explaining how the requirements of subsection (A) are met.
- C. The Licensing Authority has no obligation to approve an alternative method of compliance and shall consider the particular facts and circumstances of each case when making such a determination.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5823. Foster Parent: General Qualifications

To qualify for and maintain licensure as a foster parent, a person shall meet the criteria listed in this Section.

1. The person shall be at least 21 years old at the time of application.
2. The person shall have sufficient income, exclusive of the foster care maintenance payment, to meet the needs of the foster parent and the foster parent's own children and household members.
3. The applicant, foster parent, and adult household members shall be free of conviction or indictment for, or involvement in the criminal offenses listed in R6-5-5802(C).
4. The applicant, foster parent, and household members shall not have any physical or mental health conditions which preclude compliance with foster care requirements.
5. Each child residing in the foster home shall have all childhood immunizations appropriate to the child's age and health.
6. An applicant or foster parent shall not:
 - a. Conduct home business activities which prevent the applicant or foster parent from caring for a foster child in accordance with foster care requirements; or
 - b. Provide foster care for adults.
7. An applicant's or foster parent's household members shall agree to and support the decision to provide foster care.
8. An applicant or foster parent shall:
 - a. Cooperate with the licensing agency, the placing agency, and the Licensing Authority regarding any inspections or investigative activities; and
 - b. Provide information as prescribed in this Article.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5824. Foster Parent: Personal Characteristics

To qualify for and maintain licensure as a foster parent, a person shall be a responsible, stable, emotionally mature individual who can exercise sound judgment. A person meets this requirement by demonstrating the following characteristics on the person's application and during the interview and investigation process:

1. The ability to realistically determine which foster children the person can accept, work with, and successfully integrate into the person's family;
2. Knowledge of child development, nutrition, health, and the various experiences a child may have, with which the foster parent may need assistance and guidance;
3. The willingness and ability to protect children from harm;
4. Knowledge and understanding of child discipline and ways of helping a child build positive personal relationships;
5. The following personal attributes:
 - a. The capacity to give and receive affection;
 - b. Enjoyment in being a parent or foster parent;
 - c. Flexibility in expectations, attitudes, behavior, and use of help when it is needed;
 - d. The ability to deal with separation, loss, frustration, and conflict;
6. The capacity to respect persons with differing life styles and philosophies, and persons of different races, cultures, and religious beliefs;
7. The ability to accept a foster child's relationship with the child's parent and birth family; and

8. The willingness and ability to commit the time necessary to provide a foster child with supervision and guidance in accordance with foster care requirements and a foster child's individual needs.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5825. Training and Development

- A.** Before receiving an initial license, an applicant shall complete at least 12 clock hours of initial foster parent training as prescribed in A.R.S. § 8-509(B). The training shall cover at least the following subjects:

1. Characteristics and needs of children who may be placed in the foster home;
2. The role of the foster parent as a member of the care and treatment team;
3. The importance of birth parent and family involvement in a child's life;
4. Methods for appropriately addressing the cultural, ethnic, and religious needs of a child in care;
5. Attachment, separation, and loss issues for children and families;
6. Behavior management policies and practices as prescribed in R6-5-5833;
7. Confidentiality;
8. Emergency procedures;
9. Resources and supportive services available to foster children and foster parents;
10. Foster care payment procedures;
11. Placing agency and Licensing Authority contact persons and procedures;
12. The impact of fostering on the foster parent and the foster parent's own family;
13. Addressing and coping with the impacts described in subsection (A)(12);
14. Specialized topics related to child welfare, health, growth, or development; and
15. The Indian Child Welfare Act of 1978 (PL 95-608).

- B.** Each licensing year, prior to license renewal, a foster parent shall attend and complete at least 6 clock hours of ongoing training as prescribed in A.R.S. § 8-509(C). Annual training may include:

1. Advanced training in the subjects listed in subsection (A);
2. Special subjects relating to child health, growth, or development, including:
 - a. Child management techniques based on the developmental needs of children in care;
 - b. Discipline, crisis intervention, and behavior management techniques; and
3. Review of placing agency policies.

- C.** An applicant or licensee shall also complete any additional training required by the Licensing Authority, or the foster parent's licensing agency or placing agency to develop specialized skills and to meet or maintain compliance with foster care requirements.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5826. Compliance With Licensing Limitations; Adult - Child Ratios

- A.** A foster parent shall limit the number of children in the home as prescribed in subsections (A)(1) and (2). As used in this Section, "children in the home" means any child in the foster home, including children placed for respite care, child care services, or baby-sitting, the foster parent's own children, and children residing in the foster home.

1. At all times, the total number of children in the home who are 5 years old or under shall not exceed more than 4 in the care of 1 adult.
 2. At all times, the total number of children in the home who are less than 1 year old, shall not exceed more than 2 in the care of 1 adult.
- B.** A foster parent shall not care for more foster children than allowed and identified on the foster parent's license, and shall not exceed 5 foster children in addition to other children in the home.
- C.** A foster parent shall abide by any terms or conditions placed on the foster parent's license when accepting a child for placement.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5827. Placement Agreement

- A.** For each child placed with a foster parent the foster parent shall have a written placement agreement meeting the requirements of subsection (B) with the foster child's placing agency.
- B.** The placement agreement shall set forth the responsibilities of both the placing agency and the foster parent regarding:
1. Provision of services for the foster child, including medical care, dental care, mental health care, other social services or treatment, and transportation;
 2. Requirements for interaction with the foster child's birth family.
- C.** If a foster parent does not receive a copy of a placement agreement at the time of placement, the foster parent shall obtain an agreement within 5 work days following the date of placement. If the placing agency refuses to provide an agreement, the foster parent shall notify the Licensing Authority.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5828. Participation in Case Planning

- A.** A foster parent is a member of the service team for a foster child in the care of the foster parent. The service team includes the case manager, the foster parent, the licensing agency representative, and persons providing services, such as attorneys, physicians, psychologists, therapists, Court Appointed Special Advocates, and school, law enforcement, and probation personnel.
- B.** A foster parent shall participate as a team member by:
1. Attending team meetings when:
 - a. The foster parent receives reasonable advance notice of the date, time, and place of the meeting; and
 - b. The meetings are held at a time and place which is accessible to the foster parent, and compatible with the foster parent's work schedule and child care schedule;
 2. Participating in team meetings through alternative methods, which may include:
 - a. Telephonic conference calls,
 - b. Submission of oral comments, and
 - c. Expressing concerns and comments to other team members who will attend the meeting;
 3. Reporting to the team on the foster child's progress and problems;
 4. Assisting in development of the case plan; and
 5. Assisting in case plan reviews.
- C.** A foster parent shall implement the case plan by:
1. Performing the tasks assigned to the foster parent in the case plan,
 2. Helping a foster child to attain any goals identified in the case plan,

3. Assisting a foster child to obtain any services specified in the case plan, and
4. Observing any limitations or conditions contained in the case plan.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5829. Daily Care and Treatment of a Foster Child; Foster Child Rights

- A.** Non-exploitation and equitable treatment
1. A foster parent shall not exploit a foster child or permit a child to be exploited.
 2. A foster parent shall permit a foster child to exercise the rights, freedoms, and responsibilities of family life in a manner that is comparable to those exercised by foster family members, subject to:
 - a. Reasonable and developmentally appropriate household rules, and
 - b. Restrictions prescribed in a foster child's case plan and foster care requirements.
 3. As used in this Section, "reasonable" means conduct which takes into account:
 - a. The foster family's physical environment,
 - b. The chores and responsibilities assigned to other household members,
 - c. The foster child's school schedule and educational needs, and
 - d. The foster child's social and recreational needs.
- B.** Religious and ethnic heritage
1. A foster parent shall recognize, encourage, and support the religious beliefs, cultural and ethnic heritage, and language of a foster child and the child's birth family.
 2. A foster parent shall coordinate with the placing agency to provide opportunities for each foster child to participate in religious, cultural, and ethnic activities.
 3. A foster parent shall not directly or indirectly compel a foster child to participate in religious activities or cultural and ethnic events against the child's will or the wishes of the child's birth parent.
- C.** Interaction with parents and birth family. A foster parent shall maintain a working relationship with a foster child's parent, birth family, and other significant persons, in accordance with the child's case plan and in cooperation with the placing agency staff.
- D.** Food and nutrition
1. A foster parent shall provide a foster child with well-balanced daily meals and sufficient food to meet the child's nutritional needs.
 2. The foster parent shall provide for a foster child's special dietary needs as prescribed in the child's case plan, or the orders of a licensed medical practitioner.
- E.** Education
1. A foster parent shall send a foster child to public school unless alternative educational arrangements, such as private, charter, or home schooling, have been approved in the child's case plan.
 2. A foster parent shall help the child in obtaining other educational services as prescribed in the child's case plan.
- F.** Clothing
1. A foster parent shall provide a foster child with clean, seasonal clothing appropriate to the child's age, sex, size, and individual needs.
 2. A foster parent shall permit a foster child to participate in making decisions about clothing choices to the extent developmentally appropriate for the child.
- G.** Funds

1. A foster parent shall use monies provided by the placing agency for designated purposes only.
2. A foster parent shall retain receipts to document the use of designated monies except monies designated for room and board.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5830. Medical and Dental Care

- A. A foster parent shall arrange for a foster child to have routine medical and dental care which shall include an annual medical exam, semi-annual dental exams, immunizations, and standard medical tests.
- B. When a foster child is placed with a foster parent, the foster parent shall determine whether the child has had a comprehensive medical exam within the past 2 months, and, for a child age 3 or older, a dental exam within the past 6 months.
- C. If a foster child has not had the medical or dental exam, the foster parent shall schedule the child for an exam within 2 weeks after the foster child is placed with the foster parent.
- D. As used in subsection (B), a comprehensive medical exam shall include:
 1. Screening for communicable disease,
 2. Screening for vision and hearing,
 3. A general physical examination by a licensed physician,
 4. Provision of any routine immunizations or immunization boosters, and
 5. Tests appropriate for the child's age and history.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5831. Child Care

- A. A foster parent shall have a plan for supervision and care of a foster child placed with the foster parent.
- B. The plan shall be consistent with the foster child's case plan, and with the child's developmental, emotional, and physical needs, and the needs of the foster parent.
- C. A foster parent shall inform the placing agency and obtain approval for use of any person given the responsibility for care of a foster child, unless otherwise provided for in the child's case plan. The case plan may include the name of a specific child care agency or provider, and may give the foster parent discretion to allow the child to go on overnight visits with specifically named persons.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5832. Transportation

- A. A foster parent shall provide or arrange appropriate local transportation to meet the routine educational, medical, recreational, social, spiritual, and therapeutic needs of a foster child, in accordance with the child's case plan, or, if not specified in the case plan, as provided in the placement agreement.
- B. A foster parent transporting foster children shall have a valid driver's license.
- C. A foster parent shall provide for the safety of a foster child when the child is transported in a motor vehicle by:
 1. Providing and using safety restraints appropriate to the age and weight of each child transported; and
 2. Prohibiting the number of persons in any vehicle from exceeding the number of available seats and seat belts in the vehicle.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5833. Behavior Management; Discipline; Prohibitions

- A. A foster parent shall set limits and rules for children in care. The foster parent shall tell the children about the foster parent's expectations regarding child behavior, including forbidden conduct, and the foster parent's methods for disciplining children who violate expectations, limitations, and rules.
 1. A foster parent shall use discipline which is reasonable, developmentally appropriate, related to the infraction, and consistent with any guidelines in the child's case plan.
 2. A foster parent shall use disciplinary methods which help a foster child to build self-control, self-reliance, and self-esteem.
 3. A foster parent shall communicate rules, consequences, and disciplinary methods to a foster child in a manner appropriate to the child's age, developmental capacity, and ability to understand.
 4. A foster parent shall explain the foster parent's limits, rules, and expectations to any placing agency or person that places a child with the foster parent.
- B. A foster parent shall not delegate the responsibility for imposing discipline on a foster child to any person other than an adult assigned responsibility for the foster child, as prescribed in R6-5-5831(C), and made known to the child. If a foster parent delegates supervisory responsibility to another person, the foster parent shall instruct the person in the foster home limits, rules, and expectations, disciplinary methods specific to the foster child, and the limitations prescribed in this Article.
- C. A foster parent shall not punish or maltreat a foster child, and shall not allow any other person to do so. As used in this Section, "punishment or maltreatment" include, but are not limited to, the following actions:
 1. Any type or threat of physical hitting or striking inflicted in any manner upon the body;
 2. Verbal abuse, including arbitrary threats of removal from the foster home;
 3. Disparaging remarks about a foster child or a foster child's birth family members or significant persons;
 4. Deprivation of meals, clothing, bedding, shelter, or sleep;
 5. Denial of visitation or communication with a foster child's birth family members and significant persons when such denial is inconsistent with the foster child's case plan;
 6. Cruel, severe, depraved, or humiliating actions;
 7. Locking a foster child in a room or confined area inside or outside of the foster home; and
 8. Requiring a foster child to remain silent or be isolated for time periods that are not developmentally appropriate.
- D. A foster parent shall not use mechanical restraints.
- E. A foster parent shall not use physical restraint unless:
 1. Permission to use physical restraint is specified in the child's case plan; and
 2. The foster parent has been trained in the proper use of the physical restraint to be used with a particular foster child.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5834. Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events

- A. Within 2 hours after a foster child suffers any of the following events, a foster parent shall notify the child's placing agency:
 1. Death;
 2. Serious illness or injury requiring hospitalization or emergency room treatment;
 3. Any non-accidental injury or sign of maltreatment;
 4. Unexplained absence;

5. Severe psychiatric episode;
 6. Fire or other emergency requiring evacuation of the foster home;
 7. Removal of a foster child from the foster home by any person or agency other than the placing agency, or attempts at such removal; and
 8. Any other unusual circumstance or incident which might seriously affect the health, safety, or the physical or emotional well-being of a foster child.
- B.** Within 48 hours of occurrence, a foster parent shall notify the placing agency of any other events likely to affect the well-being of a foster child in the foster parent's care, including the following circumstances:
1. Involvement of a foster child with law enforcement authorities;
 2. Serious illness or death involving a member of the foster family's household or a significant person;
 3. Change in foster family or household composition; and
 4. Absence of 1 foster parent from a 2 parent household for more than 7 continuous days.
- C.** Within 24 hours of giving notice as prescribed in subsection (A) or (B), a foster parent shall send the placing agency and licensing agency a written report on the event. The report shall include the following information:
1. A description of the event, with the date and time of occurrence;
 2. The names and telephone numbers of any persons involved in the event;
 3. Any measures taken to address, correct, or resolve the event, including treatment obtained, and persons notified.
- D.** Within 2 days of receipt of the written report prescribed in subsection (C), the licensing agency shall send the written report to the Licensing Authority.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5835. Notification of Events or Changes Involving the Foster Family or the Foster Home

- A.** A foster parent shall notify the licensing agency of any changes in the foster family's composition including, but not limited to the following events:
1. Marriage;
 2. Divorce;
 3. Addition of a new household member, including a temporary visitor expected to stay 1 month or longer; and
 4. Death or departure of a current household member.
- B.** A foster parent shall notify the Licensing Authority of any substantial changes to the foster home, including:
1. Fire or emergency requiring evacuation of the foster home;
 2. Moving to a new residence; and
 3. Remodeling the foster home.
- C.** When a foster parent has advance knowledge of an event or change listed in subsection (A) or (B), the foster parent shall give reasonable advance notice of the anticipated event or change. Reasonable advance notice means notice which permits the licensing agency time to conduct an inspection, and the Licensing Authority time to issue an amended license, as prescribed in R6-5-5814, without disruption of a placement.
- D.** If the event or change is unexpected, a foster parent shall give notice as soon as the event occurs or change is known.
- E.** For events or persons not specifically listed in subsection (A) or (B), the foster parent shall give notice within 5 work days of the event or change.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5836. Maintenance of a Foster Child's Records

- A.** A foster parent shall maintain records for each foster child placed with the foster parent in accordance with the placing agency's requirements and this Section.
- B.** The foster parent shall ensure that the records include at least the following:
1. Information on a foster child, the foster child's birth family, and any other significant persons in the foster child's life, if the placing agency has provided such information to the foster parent, as follows:
 - a. Name,
 - b. Address,
 - c. Telephone number, and
 - d. A description of the person's relationship to the child.
 2. A record of the foster child's contacts with birth family members and other significant persons, including the person contacted, and the date and method of contact (visit, telephone call, or written communication);
 3. Medical and health information provided by the placing agency;
 4. A consent form or notice from the foster child's guardian authorizing the foster parent to obtain routine, nonsurgical medical care, and emergency medical and surgical treatment for the foster child;
 5. A record of the medical and dental care provided to the foster child during the placement, including:
 - a. Date of appointment;
 - b. Description of any illness, injury, or health problem;
 - c. Name, address, and telephone number of the medical practitioner who treated the child; and
 - d. Resulting diagnosis and treatment, any prescribed medications, and any hospitalization;
 6. Reports of any medical tests, information, or counseling received regarding routine, emergency, chronic, or handicapping conditions;
 7. A copy of the child's current case plan;
 8. Any progress notes the foster parent may record;
 9. Notations or records of significant incidents, events, and activities;
 10. Identification of any schools attended with dates of attendance, any school reports;
 11. Memorabilia to help the foster child retain a memory of placement and a life record; the memorabilia may include photographs, diaries, journals, souvenirs, scrapbooks, and art projects;
 12. Placement agreement with the placing agency;
 13. A clothing inventory (clothing brought with the foster child at the time of placement) and a record of clothing purchased for the child during placement; and
 14. At the time of the child's departure from the foster home, a description of the foster child's daily routine and personal preferences and habits such as favorite foods, fears, and bedtime routines.
- C.** A foster parent shall provide the record to the placing agency upon termination of the foster child's placement.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5837. Confidentiality

- A.** A foster parent shall maintain the confidentiality of all personally identifiable information about a foster child and a foster child's birth family. A foster parent may release information when so authorized by a foster child's placing agency, and, in an emergency, when release is necessary to protect the health or safety of the child.

- B. A foster parent shall safeguard a foster child's records in a manner that prevents loss, tampering, or unauthorized use.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5838. Foster Home: General Requirements

- A. The foster home parent shall:
1. Keep the foster home safe, in good repair, and sanitary, as described in R6-5-5804(C) through (E) and R6-5-5838 through R6-5-5846; and
 2. Keep the outside area around the foster home free from objects, materials, and conditions which constitute a danger to the occupants.
- B. If the foster parent accepts and provides care to a child with special physical needs, the foster parent shall equip the foster home with any equipment needed to accommodate the particular child's special needs.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5839. Foster Home: General Safety Measures

- A. The foster home shall have a telephone or other mechanical device allowing 2-way communication with the outside community.
- B. A foster parent shall safeguard all hazardous chemicals, cleaning materials, toxic substances, and hazardous materials, objects, and equipment.
- C. A foster parent shall safeguard medical equipment and lock medications, except that the foster parent shall safeguard those medications that must be immediately and readily available for a family member or foster child.
- D. When a foster home has a private source of water, the foster parent shall have evidence that a state or local health authority has approved the water as potable water.
- E. The foster parent shall maintain the warm water in the foster home at a temperature that does not exceed 120° F.
- F. A foster parent shall store firearms and ammunition in locked storage which is inaccessible to children.
1. A firearm shall be trigger-locked or fully inoperable while in storage.
 2. Ammunition shall be stored in a location separate from firearms.
- G. A foster parent shall not maintain any animal that poses a danger to a foster child.
- H. A foster parent shall provide evidence that dogs belonging to the foster family or routinely present on the foster home premises, have current vaccinations against rabies.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5840. Exterior Environment; Play Area; Play Equipment

- A. The foster parent shall keep the outside play areas clean and safe. The play area shall be fenced if there are conditions which may pose a danger to a child playing outside. The age and developmental abilities of the child are considerations for determining risk to the child.
- B. The foster parent shall provide a variety of safe play equipment, toys, and supplies for each child. The age and developmental abilities of the child and standards in the community are considerations for determining the variety of play equipment, toys, and supplies required.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5841. Swimming Pools and Pool Safety

- A. A foster home's swimming pool shall meet the requirements of this Section and the "swimming pool/spa" and "swimming pool guidelines" Section in the Sanitation Inspection Guidelines published by the Department of Health Services (DHS) (January 1996), and not including any later amendments or editions, which are incorporated by reference. Copies of these sections from the guidelines are available for inspection at the Secretary of State's Office, Public Services Department, 1700 West Washington, Phoenix, Arizona 85007, and for inspection and copying at the Department of Economic Security, Authority Library, 1789 West Washington, Phoenix, Arizona 85007, and the DHS, Office of Child Care Licensure, 1647 East Morten, Suite 230, Phoenix, Arizona 85020.
- B. If the foster parent cares for a foster child who is age 5 or under, the swimming pool shall be fenced so that the pool is separated from the house, or, otherwise made physically inaccessible to a foster child.
- C. A foster parent shall supervise a child who is in the swimming pool or surrounding area, in accordance with the child's age, capabilities, and developmental level.
- D. A foster parent shall have at least 1 person currently certified in cardiopulmonary resuscitation (CPR) present in the foster home's swimming pool area when a foster child age 13 and under is swimming in the foster home swimming pool.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5842. Bedrooms; Bedding; Sleeping Arrangements

A foster parent shall provide safe sleeping arrangements which accommodate the privacy needs of a foster child, as prescribed in this Section.

1. The foster family and a foster child shall sleep in bedrooms. An unfinished attic, a basement area, or a space normally and primarily used for passageways and purposes other than sleeping are not bedrooms.
2. A bedroom in the foster home shall have a finished ceiling, floor-to-ceiling permanently affixed walls, a door, finished flooring, light, ventilation, and a usable exit to the outdoors.
3. A foster parent shall provide each foster child with a bed.
 - a. The bed shall be appropriate to a child's age and needs.
 - b. For the purpose of this Section, "bed" does not include a cot, couch, convertible couch, portable bed, sleeping bag or mat, except as approved by the Licensing Authority.
 - c. No foster child shall sleep in a bunk bed of more than 2 tiers.
 - d. A foster child under age 8 shall not sleep in the top bunk of a 2 tier bunk bed.
4. A foster parent shall provide the following for each foster child:
 - a. A sanitary mattress;
 - b. A clean pillow;
 - c. Clean bed linens;
 - d. Blankets or covers, as appropriate to the weather;
 - e. A waterproof protective mattress cover, as needed; and
 - f. Furniture or shelving near the bed to store clothing and personal belongings.
5. A foster parent shall not allow a foster child to share a bedroom with an adult except as specified in this subsection.
 - a. A foster child under age 3 may share a bedroom with the foster parent.

- b. A foster child who is age 3 or older may share a bedroom with the foster parent when:
 - i. The sleeping arrangement and the reason for it are described in a foster child's case plan; or
 - ii. The foster child temporarily requires the foster parent's attention during sleeping hours.
 - c. A foster child who has regularly shared a bedroom with another child in the foster home who has turned 18 may continue to share the bedroom with the child who has turned 18 unless the placing agency determines that the arrangement is contrary to the best interests of the foster child.
- 6. A foster parent shall not allow a foster child who is age 6 or over to share a bedroom with a child of the opposite gender.
 - 7. Notwithstanding any other provision of this Section, a foster child who is a minor parent may share a room with her own child.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5843. Bathrooms

- A. A foster home shall have at least 1 toilet, 1 wash basin, and 1 bathtub or shower.
- B. A foster parent shall:
 - 1. Maintain the foster home's toilets, washbasins, bathtubs, and showers in good working order; and
 - 2. Have slip resistant flooring for bathtubs and showers.
- C. A foster home bathroom shall have interior plumbing with both warm and cold water.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5844. Kitchen

- A. A foster home shall have a kitchen that is equipped for safe and sanitary preparation, serving, and storage of food.
- B. The kitchen shall have interior plumbing with both warm and cold water.
- C. The kitchen shall have an operable refrigerator, stove, and oven.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5845. Fire Safety and Prevention

- A. The foster parent shall install and maintain at least 1, single-station smoke detector approved by a nationally recognized testing laboratory in the following areas of the foster home:
 - 1. On each floor in a multi-story dwelling;
 - 2. In each separate sleeping area.
- B. A foster parent shall install and maintain at least 1 ABC-type fire extinguisher on each floor of the foster home; except if the foster home is a manufactured home, the foster parent shall have at least 2 fire extinguishers placed at opposite ends of the home.
- C. A foster parent shall not use portable space heaters during sleeping hours.
- D. A foster home shall not rely on portable space heaters as the sole source of heat.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5846. Emergencies, Exits, and Evacuation

- A. A foster parent shall have a plan for emergency evacuation of the foster home.

- B. All household members and persons who care for a foster child in the foster home shall be knowledgeable about the emergency and evacuation plans and procedures.
- C. Within 48 hours after a foster child is placed in a foster home, a foster parent shall give the foster child a developmentally appropriate explanation of the emergency and evacuation plan, and ensure that the foster child can follow the plan in the event of a fire or emergency.
- D. A foster home shall have the following exits:
 - 1. On each floor used by a foster child, 2 exits which are remote from one another;
 - 2. On each floor, at least 1 exit with a direct, unobstructed and safe means of travel to the outdoors, and a safe method to reach street or ground level;
 - 3. A window serving as a second exit only if:
 - a. It is accessible to children and care-givers;
 - b. It can be readily opened; and
 - c. It is of a size and design to permit a child or care-giver to pass through it; and
 - 4. On windows with security bars or devices, an emergency release mechanism maintained in good repair.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5847. Special Provisions for a Receiving Foster Home

A foster parent who operates a receiving foster home shall comply with all foster home requirements, in addition to the following:

- 1. A receiving foster parent shall be prepared to accept a foster child, according to the capacity and terms of the foster home license, 24 hours per day, 7 days per week, unless the foster parent has made other arrangements with the placing and licensing agency.
- 2. A receiving foster parent may simultaneously provide receiving care, family foster care, and respite care so long as the total number of children in the foster home at any 1 time does not exceed the ratios prescribed in R6-5-5826 and the terms of the foster home license.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5848. Special Provisions for a Respite Foster Home

A. A foster parent who operates a respite foster home shall comply with all foster home requirements, except as provided in this Section.

- 1. A respite foster parent may simultaneously provide respite care, family foster care, and receiving care so long as the total number of children in the foster home at any one time does not exceed the ratios prescribed in R6-5-5826 and the terms of the foster home license.
- 2. A respite foster parent may use sleeper sofas, rollaway beds, couches, cots, and sleeping bags or mats as acceptable sleeping accommodations for a child receiving respite care, provided the respite care does not exceed 6 consecutive days.

B. A respite foster parent shall request and receive information and instruction from the regular foster home licensee on at least the following:

- 1. Information and instruction about the specific personal care of a child in respite care;
- 2. Information and instruction about the provision of medications required by a child in respite care;
- 3. Behavior management policies and practices and specific instructions for a child in respite care; and
- 4. Emergency contacts and telephone numbers for a child in respite care.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5849. Special Provisions for an In-home Respite Foster Parent

- A.** A person applying for licensure solely as an in-home respite foster parent shall comply with all foster home requirements except as otherwise provided in this Section.
- B.** An in-home respite foster parent applicant shall comply with R6-5-5802 and R6-5-5823 except the applicant is not required to provide the following:
 - 1. Immunization records for each child in the applicant's household as required by R6-5-5802(B)(6) and R6-5-5823(5);
 - 2. Documentation of sufficient income as required by R6-5-5823(2);
 - 3. A statement explaining the child care arrangements the applicant would make for a foster child, or the applicant's own children, during the applicant's working hours as required by R-6-5802(B)(10);
 - 4. A statement explaining how activities related to a business activity will not interfere with the care of a foster child as required by R6-5-5802(B)(11);
 - 5. A description of the applicant's home and neighborhood as required by R6-5-5802(B)(16);
 - 6. A statement authorizing the licensing agency or the Licensing Authority to arrange for DHS to conduct a health and safety inspection of the applicant's home as required by R6-5-5802(B)(23)(c).
 - 7. Household members are not required to submit to fingerprinting or a criminal history check as required by R6-5-5802(C) and R6-5-5823(3).
- C.** The following rules do not apply to a person seeking licensure solely as an in-home respite foster parent:
 - 1. R6-5-5827. Placement Agreements;
 - 2. R6-5-5828. Participation in Case Planning, unless requested to do so;
 - 3. R6-5-5830. Medical and Dental Care;
 - 4. R6-5-5834. Notification of Foster Child Death, Illness, Accident, Unauthorized Absence, or Other Unusual Events, subsections (B)(3) and (4), unless the change or event directly affects the licensee's ability to provide respite care and comply with these rules;
 - 5. R6-5-5835. Notification of Events or Changes Involving the Foster Family or the Foster Home, subsection (A), unless the change or event directly affects the licensee's ability to provide respite care and comply with these rules, and subsection (B), except a fire or emergency requiring evacuation of the foster home;
 - 6. R6-5-5836. Maintenance of a Foster Child's Records, except to document any behavioral incidents, medical care, provision of medication, and any other event or service required by the case plan or which may be requested by the regular foster parent while the in-home respite foster parent has responsibility for the foster child in care;
 - 7. R6-5-5838. Foster Home: General Requirements;
 - 8. R6-5-5839. Foster Home: General Safety Measures;
 - 9. R6-5-5840. Exterior Environment; Play Area; Play Equipment
 - 10. R6-5-5841. Swimming Pools, subsections (A) and (B);
 - 11. R6-5-5842. Bedrooms; Bedding; Sleeping Arrangements;
 - 12. R6-5-5843. Bathrooms;
 - 13. R6-5-5844. Kitchen;
 - 14. R6-5-5845. Fire Safety and Prevention, subsections (A) and (B); and
 - 15. R6-5-5846. Emergencies, Exits, and Evacuation, subsections (A), (C), and (D).

- D.** An in-home respite foster parent shall request and receive information and instruction from the regular foster home licensee on at least the following:
 - 1. The behavior management policies and practices of the home as required by R5-5-5833 and specific instructions which apply to a child in respite care;
 - 2. Household policies and practices for emergency situations;
 - 3. Routine household management practices which will provide for continuity in operation of the foster home for the comfort and support of a foster child in care.
- E.** An in-home foster parent shall not permit any unlicensed person to accompany or assist the in-home foster parent while providing respite care.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

R6-5-5850. Special Provisions for a Professional Foster Home

- A.** A professional foster home shall comply with all foster home requirements except as otherwise provided in this Section.
- B.** A professional foster parent applicant shall provide to the licensing agency or the Licensing Authority documentation or demonstration of:
 - 1. Verified, successful foster parenting experience; or
 - 2. Verified experience working with or the ability to care for special care children.
- C.** A professional foster parent shall complete the following training:
 - 1. At least 12 clock hours of pre-service training and 6 clock hours of ongoing training in addition to the requirements of R6-5-5825(A) and (B);
 - 2. Training in cardiopulmonary resuscitation (CPR) and first aid; and
 - 3. Pre-service training related to the type of care and services required by a child to be placed into the professional foster parent's care, which may include the following:
 - a. Training in de-escalation;
 - b. Training in physical restraint practices, as needed; and
 - c. Training in medical and health care issues, procedures, and techniques including:
 - i. The purpose, use, and administration of medications;
 - ii. Medication interactions; and
 - iii. Potential medication reactions.
- D.** Notwithstanding any other provisions of this Article, a professional foster home is subject to the licensing limitations in this subsection.
 - 1. A professional foster home shall have no more than 2 special care foster children.
 - 2. The licensing agency may recommend an exception to allow the professional foster parent to care for up to 5 special care foster children when the foster parent has demonstrated the ability to provide care for more than 2 special care children.
 - 3. In deciding whether to recommend increased capacity as allowed by subsection (D)(2), the licensing agency shall assess:
 - a. The professional foster parent's motivation for fostering more than 2 special care children;
 - b. Any CPS reports involving the professional foster parent; and
 - c. Whether the professional foster parent has demonstrated:

- i. Verified, successful professional foster parenting experience with 2 special care children;
 - ii. A minimum of 1 year of verified, successful work experience with special care children; or
 - iii. Verified specialized skills and training in the care of special care children.
- 4. The Licensing Authority shall evaluate the recommendation and determine whether to approve the exception.
- E. Except when temporarily replaced by an approved alternative care provider, a professional foster parent shall serve as the foster child's primary caregiver and be available to provide direct physical and specialized professional services as required in the foster child's case plan.
- F. A professional foster parent shall use best efforts to participate as a member of the service team as prescribed in R6-5-5828(B), through at least 1 of the following methods:
 - 1. Personal attendance at team meetings,
 - 2. Telephonic conference calls,
 - 3. Provision of a written report on a foster child's progress and problems including any recommendations for service.
- G. A professional foster parent shall maintain at least a weekly record of a special care child's progress and problems, unless more frequent documentation is required, in addition to maintaining the records required by R6-5-5836.
- H. Within the license renewal application, a professional foster parent shall include evidence of current CPR and first aid certification.

Historical Note

Adopted effective January 10, 1997 (Supp. 97-1).

ARTICLE 59. GROUP FOSTER HOME LICENSING STANDARDS

R6-5-5901. Objectives

The Department shall establish licensing and operating standards which protect and insure the health, safety and welfare of children in care away from their own families.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5902. Authority

A.R.S. §§ 8-501, 8-503, and 8-506, 8-507 and 8-509.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5903. Definitions

- A. "Authorized representative." A designated employee of the Department or of the contract provided.
- B. "Child." Any person under 18 years of age.
- C. "Department." The Arizona State Department of Economic Security.
- D. "Foster care." A social service which, for a planned period, provides substitute care for a child when its own family cannot care for it for a temporary or extended period of time. Foster care may be in a private family home, a group home or an institution.
- E. "Foster care." A child placed in a foster home or a child welfare agency. (A.R.S. § 8-501(3)).
- F. "Foster child." "A home maintained by an individual or individuals having the care and control of minor children other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals." (A.R.S. § 8-501(4))
- G. "Group foster home." A licensed regular or special foster home suitable for placement of more than five minor children but not more than ten minor children." (A.R.S. § 8-501(5))

- 1. "Group family home." A licensed regular group foster home for six to ten minor children whose needs are not adequately met in their own family homes and who cannot tolerate close, intimate parent-child relationships.
- 2. "Group community home." A licensed special group foster home for six to ten minor children who require special care, including adjudicated delinquents, and those with physical, mental or emotional handicap problems. Caretakers of these homes are skilled in caring for such problems.
- 3. "Group receiving home." A licensed group foster home appropriate for the immediate placement of children when taken into custody or pending medical examination and court disposition, suitable for placement of more than five minor children but not more than ten minor children.
- H. "License." Includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law.
- I. "Licensed medical practitioner." "Any physician or surgeon licensed under the laws of this state to practice medicine pursuant to Title 32, Chapters 13 and 17." (A.R.S. § 36-501(4))
- J. "Licensing." Includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
- K. "Parent or parents." "The natural or adoptive parent or parents of the child". (A.R.S. § 8-501(6))

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5904. Responsibilities of the Department

- A. The Department shall establish rules, regulations and standards for:
 - 1. Recruiting, licensing, re-licensing, classification and supervision of group foster homes.
 - 2. Uniform amounts of payment for all group foster homes according to type of license.
 - 3. Form and content of investigations, reports and studies concerning licensing.
 - 4. Denying, revoking or suspending foster home licenses.
- B. The Department shall provide training, consultation and technical assistance to group foster parents.
- C. The Department shall investigate and take action to prevent continued operation of group foster homes being conducted or maintained without a license.
- D. The Department will ensure that standards represent current child welfare practices which are considered necessary to promote a safe environment for children, and which will contribute toward the normal growth and development of foster children, and which will encourage the development of meaningful relationships with peers, adults and the community.
- E. The Department shall not be obligated to make referrals or payments to a licensed group foster home.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5905. Operating without a license

- A. Every person, association, institution or corporation, whether operating for profit or without profit, which shall conduct or manage a group foster home shall obtain a license to operate, except State-operated facilities, detention facilities for children established by law, camps operating less than 12 months per year, and boarding schools where the child is away from the campus for at least 60 days per year (A.R.S. § 8-501(1)(c)).
- B. When the Department has reason to believe that a group foster home is being conducted or maintained without a license, it

will make an investigation and, if necessary, take action to prevent such continued operation.

- C. The Department may request the Superior Court to issue an injunction restraining the group foster home from operating without a license.
- D. When a child is placed in a home by a means other than a court order and receives no compensation from the state or any political subdivision of the state, licensing requirements do not apply.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5906. Licensing requirements

- A. Consultation. Individuals, associations, institutions or corporations considering the establishment of a group foster home shall consult the Social Services Bureau of the Department about such plans before a specific program is developed, before action is taken to establish such a home, and before an application is filed.
- B. Application. Individuals, associations, institutions or corporations, whether operating for profit or without profit, which desire to conduct or manage a group foster home shall make written application to the department on the prescribed forms.
- C. Fingerprints
 - 1. Foster parents and members of the household, 18 years of age or older, must be fingerprinted and the fingerprints submitted to the Department for a criminal records check.
 - 2. Where group foster care is provided by a firm, corporation, association or organization, all members of the staff having contact with the foster children must be fingerprinted and the fingerprints submitted to the Department for a criminal records check.
 - 3. A license for a group foster home will not be issued, or will be revoked, if any member of the household, 18 years of age or older, or any staff member, has ever been convicted of a sex offense, or involved in child abuse, child neglect, trafficking in narcotics, a criminal offense pattern, or contributing to the delinquency of a minor.
- D. Demonstration of health
 - 1. The potential foster care applicant, or any staff member, prior to licensing shall furnish the Department, on the prescribed form, with a physical examination report.
 - 2. Physical examinations must demonstrate that the person has good health and is free from any communicable disease.
 - 3. A licensed medical practitioner must certify on the form prescribed by the Department that the health of the foster parents is adequate to undertake the tasks expected.
 - 4. The foster parents, or group foster home Director, shall notify the Department when an individual residing or working in the group foster home contracts a disease or illness which may present a threat to the health of the foster child.
 - 5. Prior to licensing, children of the foster care applicant shall have current immunizations as prescribed by the Arizona Department of Health Services.
- E. References
 - 1. Applicants for the original license only shall provide the Department with at least three references as to their character and their ability to provide foster care.
 - 2. The references may not be relatives of any degree of blood or marriage.
- F. Home study
 - 1. A study will be made by an authorized representative of the Department to evaluate the potential and actual ability of the foster parents in this specific building and neigh-

borhood to give care and protection to children placed in the home according to the standards prescribed in this Article.

- 2. To obtain this information, the authorized representative must make at least one home visit to inspect the house and yard and evaluate the neighborhood, interview all persons living in the home including children old enough to interview, and observe relationships.
- 3. In addition, the authorized representative shall interview the foster parents, the group home Director and staff to obtain information regarding the services to be provided.
- 4. The Department may request staff of other governmental agencies to make inspections or investigations to determine if the applicant meets standards of the Department. These will include, but not be limited to, inspections for fire, safety, and health.

G. Agreements

- 1. Prior to being licensed, group foster parents or the group foster home Director must sign the Foster Home Agreement form as prescribed by the Department.
- 2. Subsequent to being licensed, if the group foster home is going to be used by the Department, there must be a Contract Provider Agreement signed.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5907. Denial, Suspension or Revocation of a License

- A. The Department shall deny, suspend, or revoke any license when:
 - 1. The foster home is not in compliance with the licensing standards of the Department, Arizona state or federal statutes, city or county ordinances or codes;
 - 2. The physical or emotional needs of foster children are not met;
 - 3. Needed medical care is not arranged, or when a foster child's medical or psychiatric plan of treatment is not followed; or
 - 4. There is misrepresentation or the violation of public confidence.
- B. When the applicant for the licensing or re-licensing of a foster home does not meet, or is in violation of, Department standards, the applicant shall be notified by certified mail, return receipt requested, that the application is being denied.
 - 1. The written notice shall state the reason why the application is denied, with references to applicable statutes, regulations and standards.
 - 2. When a license has been denied, suspended or revoked, the Department shall notify the foster parents of the right to a fair hearing.
 - 3. When a hearing is requested, the denial, suspension, or revocation of the license is not final until after the hearing officer issues a decision.
 - 4. The Department shall conduct appeals as prescribed in 6 A.A.C. 5, Article 75.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

Amended effective June 4, 1998 (Supp. 98-2).

R6-5-5908. Re-licensing requirements

- A. Every license shall expire one year from the date of issuance and may be renewed annually on application of the group foster home.
 - 1. License renewal is not automatic.
 - 2. License renewal requires:
 - a. A consultation;
 - b. An application;

- c. Physical examinations;
 - d. A home study;
 - e. The foster home agreement; and
 - f. The contract provider agreement.
- B.** An application for the renewal of a license for a foster home shall be made in the same manner as the original application. A licensee should reapply when:
- 1. The present license will expire within 30 to 60 days.
 - 2. The marital status of the licensee has changed;
 - 3. There is a change in the original program and/or purpose of the home.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5909. Standards for licensing and operating group foster homes

A. Requirements for family group home foster parents

- 1. Attitude and ability
 - a. Applicants for licensing and licensed group foster parents shall:
 - i. Have previous training or experience with the type of children for which the foster home is certified;
 - ii. Be able to identify with the Department's programs and goals, work within its policies and follow the recommendations of the authorized representatives of the Department;
 - iii. Participate in training designated by the Department;
 - iv. Have a wholesome attitude toward, and understanding of child development, discipline, health, nutrition, sex education, and the various experiences which a child may have and with which a child may need assistance and guidance; and
 - v. Be capable of accepting the child's relationship with his/her parents.
 - b. Children under the age of 18 years, of applicants for licensing and licensed foster parents must demonstrate a willingness to share their parents and home with foster children.
- 2. Age
 - a. Foster parent applicants must be over the age of 18 years and under the age of 65 years.
 - b. Persons over the age of 65 years may be licensed if recommended by an authorized representative of the Department and if a licensed medical practitioner attests that the health of the foster parents is adequate to undertake the tasks expected.
- 3. Marital status
 - a. The presence of both a foster father and a foster mother is considered desirable. However, this requirement may be waived at the discretion of the Department.
 - b. If the foster parents consist of a husband and wife, they shall have been married to each other for at least 12 months prior to the original application for license.
 - c. Single parents may apply for licensing if they can demonstrate the ability to care for children adequately.
 - d. A single parent whose marriage has been dissolved by divorce or death, or who has had a legal separation, must wait 12 months before applying for a license to provide foster care. This does not apply to group foster parents who are currently licensed.

- 4. Employment
 - a. Foster parents will not be licensed for the care of children under six years of age if both parents work.
 - b. Working parents who apply for licensing or re-licensing must demonstrate to the authorized representative of the Department the ability to give adequate care and supervision to foster children.

B. Requirements for community group home staff

- 1. The administrator of a community group home shall have:
 - a. A bachelor's degree plus two years of verifiable experience in the field of residential child care, education or other allied profession and shall be responsible for the management of the business and program of the community group home; or
 - b. A high school diploma and shall have had four years of verifiable work experience in the fields indicated above, including administrative responsibility.
- 2. Each child care staff member shall have prior successful experience in child care or related areas or have an academic background relating to this field.

C. Requirements for the organization of a community group home

- 1. Every community group foster home, whether it is operated on a profit or a nonprofit basis, shall be incorporated under the laws of the state of Arizona.
- 2. There shall be a board of directors composed of members of the community, none of whom are members of the staff of the community group foster home.
- 3. The board of directors shall be responsible for appointing an administrator to assume the full responsibility of directing the business and program of the community group foster home.

D. Financial resources

- 1. Family group home. Foster parents shall have sufficient income to meet the needs of the family unit without dependence upon the payments made in behalf of the foster children.
- 2. Community group home
 - a. A community group home shall have a sound plan of financing to assure sufficient funds to enable it to carry out the planned program for children.
 - b. The community group home shall operate on a budget which has been approved by its governing board before the beginning of the fiscal year. The current budget of a community group home shall reflect sufficiency of funds to pay the costs associated with the home's functions.

E. Supervision and care of foster children. The following requirements apply to both the family group home and the community group home.

- 1. General guidelines
 - a. The group foster home shall provide care, training, guidance and controls.
 - b. The group foster home shall see that each child attends school as required by law. Each child shall be given the opportunity to complete high school or vocational training in accordance with the youngster's aptitude.
 - c. The group foster home shall at no time leave children overnight unless attended by a responsible adult.
 - d. The group foster home shall never leave unattended children under 12 years of age or an older child who needs special care for physical, mental or emotional reasons.

- e. The group foster home shall not accept for care a foster child who has any evidence of a communicable disease or accept for care any foster child when there is evidence of communicable disease in the group foster home.
 - f. The group foster home shall not release a foster child to anyone for care other than the agency from whom the child was received or a person specifically designated by the child placing agency.
 - g. The group foster home shall provide training in good health practices, including proper habits in eating, bathing, personal grooming and hygiene suitable to the child's age and needs.
 - h. The group foster home shall plan activities that stimulate and provide for social relationships, creative activities and hobbies.
 - i. The group foster home shall give children opportunities to participate in neighborhood, school and other community groups appropriate to the age and needs of the youngster.
 - j. The group foster home shall give children opportunity to invite friends to the foster home and to visit in the homes of friends.
2. Maintenance of appropriate family ties
- a. The group foster home, unless otherwise indicated by the authorized representative of the child placing agency, shall make every reasonable effort to maintain meaningful ties between the child and his/her family. This would include provision for letter writing between parent and child, planning with the placing agent for parental visits to the child, and home visits by the child when appropriate.
 - b. The group foster home shall provide and encourage reasonable opportunities for the child to maintain contact with all family members and with other individuals important to the child's welfare, consistent with case planning.
 - c. The group foster home shall not deny children opportunities to visit with the parent(s) or guardian unless such visits have been restricted by court action or when the representative of the child placing agency has advised that the visit would be detrimental to the welfare of the child.
3. Religious training. The group foster home shall permit children to attend the church of their choice and have religious training opportunities.
4. Discipline and controls
- a. Discipline shall be handled with kindness and understanding.
 - b. Correction must be fair, reasonable and consistent, and must be related to the offense.
 - c. Well-defined rules that set the limits of behavior shall be established.
 - d. When appropriate, children shall participate in establishing the rules.
 - e. No child within the group foster home shall be subjected to cruel, severe, unusual or corporal punishment inflicted in any manner upon the body.
 - f. No youngster shall be subjected to verbal abuse or derogatory remarks about himself/herself or family.
 - g. The child shall not be deprived of visits from significant others in the child's life as a form of punishment when the authorized representative of the child placing agency has identified the visitation as appropriate.
 - h. Punishment connected with functions of living, such as sleeping or eating, shall not be used.
 - i. Discipline should be administered in such a way as to help this child develop self-control, and to assume responsibility for behavior.
 - j. Appropriate remedial action shall be taken when children in care commit delinquent acts.
5. Exploitation of children
- a. The group foster home shall assign tasks and work assignments which are appropriate to the age and abilities of the child and which do not interfere with school, health or necessary recreation.
 - b. The group foster home shall not identify children by name or by clear description and must not allow them to be photographed in any publication or other printed or broadcast media. Only the Department may approve exceptions to this rule.
 - c. The group foster home shall not permit children in care to commit illegal acts.
 - d. The group foster home shall not provide or permit the use of alcohol or drugs unless prescribed by a licensed medical practitioner.
 - e. The group foster home shall not use children for money making endeavors or for soliciting on behalf of the facility.
6. Clothing and personal items
- a. Each child shall have his/her own clothing and personal possessions as well as storage space for them.
 - b. Clothing shall be of the proper size, of correct weight for climatic conditions and shall be kept clean and in good repair.
7. Health care of foster children
- a. The group foster home shall make arrangements for and/or with health care and treatment facilities to minimize and prevent health problems and illness, to give proper attention to those who are ill, and to correct treatable physical and emotional problems.
 - b. The group foster home shall closely observe children for signs of illnesses such as skin rashes, inflamed eyes, running noses, coughs and elevated temperatures, and obtain prompt medical attention.
 - c. The group foster home shall not ignore a child's complaint of pain or illness.
 - d. The group foster home shall obtain the services of specialists to provide care, treatment and consultation when recommended by the licensed medical practitioner used by the group foster home.
 - e. The group foster home shall not place any child in isolation unless recommended by a licensed medical practitioner.
8. Nutrition. Diets shall be well balanced and adequate to meet the nutritional needs of the children. When ordered by a licensed medical practitioner, special diets shall be provided. No dented or bloated canned foods shall be used. There should be a minimum of three meals per day with one being a cooked full-course meal. Only pasteurized milk shall be used. Appropriate snacks will be provided.
- F. Number of children
- 1. The number of children in a group foster home shall not exceed the number for which it has been licensed by the Department.
 - 2. A sufficient number of staff must be on duty at all times in order to assure proper care for all children. The minimum ration of group foster home child caring staff, not

including clerical, housekeeping and maintenance staff, shall be as follows:

- a. For children from infancy through six years of age, no more than eight children to one staff member on duty at all times.
- b. For children from 7 to 18 years of age, no more than ten children to one staff member on duty at all times.
- c. A staff member shall be present in each building where children sleep during sleeping hours, and at least one staff member must be on duty in a family setting if children are present.
- d. Where there are pre-school, handicapped, bedridden, or other non-ambulatory children present, the ratio shall be no more than five children to one child care staff member for all hours, including sleeping hours.

G. One category of care

1. The group foster home shall not be used for categories of care other than group foster care for children. For example, no home shall offer, at the same time, full-time care and care for part of the day.
2. The group foster home shall not combine care of adults and children except in the care of an unmarried mother and her child, or in the case of persons under 21 years of age who voluntarily remain in foster care and who are currently enrolled in and regularly attending any high school.
3. The group foster home shall not house adult roomers and/or boarders; the only exception would be if the roomer or boarder has been with the family for a long period of time and is considered a member of the family. In this case, all the requirements for the family must also be met by the roomers and/or boarders.
4. Foster children reaching the age of 18 years may remain in the group foster home as roomers or boarders, if this plan is approved by the Department.

H. Records and reports

1. Children's records. The group foster home shall maintain a confidential record for each child in care. The information in the child's record shall be made available only to staff of the group foster home and to authorized representatives of the Department and/or the child placing agency. The record of each child shall contain basic identification, and historical, educational, social, medical and psychological information, along with service plans and progress reports.
2. Financial records
 - a. The community group home must maintain complete financial records of all receipts, disbursements, assets and liabilities.
 - b. The community group home, as requested by the Department, must provide budgetary information. The facility must provide for an annual audit of all accounts by an auditor who is not an employee of the facility or a member of its Board of Directors. The person or firm preparing the audit must be certified or registered with the Arizona State Board of Accountancy.
 - c. The group foster home shall maintain a written record of expenditures for clothing and personal allowances for each child.
3. Reports
 - a. The group foster home shall report immediately to the child placing agency whenever a child is injured, runs away, or when there is any other significant change in the child's situation.

- b. The group foster home shall report all new placements and discharges within five working days.
- c. The group foster home shall report to the Department any planned change of address, change in program, or other change which significantly affects the care provided. The Department shall be notified 30 days prior to any planned changes.
- d. Family group home foster parents shall report any change of marital status, and any new roomers or boards in the house.
- e. The community group home shall report to the Department any change in staff within five days of employment or discharge.

I. Requirements of home and equipment

1. Location. The group foster home must be in a district where schools and medical care are accessible, and where children can associate with other children and participate in community activities. The group foster home shall be on, or accessible to, a road passable 12 months of the year. The foster parent(s) or staff shall be able to provide private transportation or public transportation shall be near and available. The group foster home must comply with local zoning requirements.
2. Financial records
 - a. The group foster home shall comply with any building, health, fire or other codes in effect in the jurisdiction where it is located. Health inspections will be requested and inspections or clearances may be requested from fire, building, and zoning officials when necessary to verify conformity.
 - b. A mobile home may not be licensed as a group home.
 - c. The house shall be in good repair and large enough to prevent crowding.
 - d. Every habitable room shall be heated so that a 70 degree temperature can be maintained when measured at a height of 3 ft. from the floor. Every habitable room shall have adequate cooling in those areas of the state with a warm desert climate. House and garden insecticides, medicines, and all corrosive materials shall be kept in locked storage out of the reach of the children. Such storage shall not be in or near kitchen or food storage areas.
3. Windows and doors
 - a. Every sleeping room shall have at least one window and one door. The window must open to the outside. The window in every livable room shall be a minimum of 22 inches in width with 5 square feet in area to provide clear access to the outside without grills or other obstructions, and to provide adequate lighting and ventilation. The sill shall be a maximum of 48 inches from the floor.
 - b. In sleeping rooms where there is no mechanical ventilation which draws a portion of its air from the outside, there must be one window to the outside of at least ten square feet, half of which can be opened.
4. Room dimensions and areas
 - a. Rooms shall have a minimum ceiling height of 7 feet, 6 inches. Hallways, corridors, and bathrooms shall have ceiling height of at least 7 feet to the lowest projection from the ceiling.
 - b. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the room except that no portion of the room where the ceiling height is less than 5 feet will be counted as available space.

- c. All rooms must contain 70 square feet minimum area except bathrooms and kitchens. No rooms may have any dimension less than 70 feet except kitchens and bathrooms.
- 5. Sleeping rooms
 - a. General requirements. Each child shall have a bed equipped with springs, a clean, comfortable covered mattress, spread, a suitable pillow with case, two sheets, and suitable blankets for warmth. Sheets and pillow cases shall be cleaned at least weekly. Use of bedrooms should not be restricted to sleeping only.
 - b. Each child shall have a place to store his clothing and personal belongings and have easy access to the possessions. Individual dressers or drawer space and closet space is essential for each child.
- 6. Space requirements. There shall be 50 square feet of floor space (excluding closet space) per child in sleeping rooms. The capacity of each sleeping room will be determined individually.
- 7. Sleeping arrangements
 - a. A child shall not sleep in a bed with an adult.
 - b. No child over three years of age shall share a bedroom with an adult.
 - c. Children over five years of age shall not sleep in the same room with children of the opposite sex.
 - d. Every child shall have his own bed.
 - e. Children shall sleep within calling distance of an adult member of the family. No foster child shall sleep in a detached building, unfinished attic, basement, stairway, hall, or room commonly used for other than bedroom purposes. No caretaker's child or other child in the household shall be displaced and made to occupy such sleeping quarters because of a foster child.
 - f. Bunkbeds of more than two tiers shall not be used. Two-tier bunkbeds shall not be used, however, for children under eight. The beds must be constructed so as to offer comfort and safety and provide sufficient head room.
- 8. Bathing and toilet facilities
 - a. General requirements
 - i. Lavatories, bathrooms, and toilets shall be adjacent and easily accessible to sleeping rooms. Rooms shall be adequately ventilated to the outside air and shall not open directly onto any pantry, kitchen, serving-room, or dining room.
 - ii. Tubs and/or showers shall have safety strips applied, rubber bath-mats, or other provisions made to prevent slipping.
 - iii. Adequate provision shall be made for keeping individual toilet articles.
 - b. Number of facilities. Each group foster home shall have at least two complete bathrooms that are accessible to the children. (A bathroom with only one exit door into the bedroom of the caretaker(s) will not be considered accessible to children.) There shall be at least one bathtub and/or shower, one toilet, and one waste basin for each six to ten children residing in the home.
- 9. Kitchen. Approval of the Arizona State Department of Health Services is required for all food services and equipment in accordance with the provisions of A.R.S. § 8-504.
- 10. Dining area
 - a. The dining area shall be furnished with the necessary furniture to accommodate those living in the group foster home.
 - b. Location of the dining area shall be convenient to the kitchen.
- 11. Living room. There shall be an adequately furnished living room or living area.
- 12. Medicine cabinets. Medicines shall be stored in a clean, locked cabinet that is designated for this use only. All medications which have been prescribed for past illnesses or for children discharged from the foster home shall be destroyed.
- 13. Laundry. Adequate provisions shall be made to care for the laundry.
- 14. Space and water heaters. Space and water heaters must be vented to the outside, adequately grounded, and installed to comply with building, plumbing, electric and fire codes.
- 15. Water supply. Where a municipal water system does not supply water to the home, the water must be tested once a year by the General Sanitation Section of Arizona State Department of Health Services.
- 16. Swimming and wading pools
 - a. Swimming pools shall meet the requirements of the Arizona State Department of Health Services.
 - b. The pool shall be made inaccessible to children under the age of six; they shall be supervised at all times.
 - c. During the swimming season, the swimming pool shall be tested and logged daily for free chlorine and to determine the pH of the water. Water safety courses are required.
 - d. Tests shall comply with the requirements of the Arizona State Department of Health Services.
- 17. Play area
 - a. There shall be adequate space for both indoor and outdoor play.
 - b. The premises, inside and out, shall be equipped and maintained in a manner which is not hazardous to children.
- 18. Fire protection
 - a. All group foster homes shall have a written fire evacuation plan posted and should conduct fire drills at least once every two months.
 - b. Portable fire extinguishers of a type approved for the intended use are strongly urged.
- 19. Telephone. There shall be telephone service in the group foster home.
- 20. Vehicle(s). The vehicle(s) for transporting children shall be in a safe operating condition and all drivers shall have a current driver's license.
- 21. Insurance
 - a. The group foster home shall provide for insurance coverage for adequate protection against accidents.
 - b. Insurance coverage must include liability insurance to cover acts of children or staff, and protection against damages to, or loss of, buildings and other valuable properties.
 - c. There shall be liability insurance on all vehicles transporting children.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

Amended effective February 21, 1980 (Supp. 80-1).

R6-5-5910. Confidentiality

The rules and regulations of the Department for securing and using confidential information concerning the client will be followed. Refer to Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information."

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-5-5911. Civil rights

Refer to Title 6, Chapter 5, Article 26, "Civil Rights."

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

R6-6-5912. Fair Labor Standards Act

The hiring and compensation policies of group foster homes shall comply with the Fair Labor Standards Act.

Historical Note

Adopted effective January 18, 1977 (Supp. 77-1).

ARTICLE 60. COMPREHENSIVE MEDICAL/DENTAL PROGRAM FOR FOSTER CHILDREN

R6-5-6001. Objective

The goal of the Comprehensive Medical/Dental Program for Foster Children is to provide, in the most cost effective manner, full coverage for those medical and dental services which are necessary to the achievement and maintenance of an optimal level of physical and mental health for children in foster care.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6002. Authority

Article 60 is adopted pursuant to the power vested in the Director of the Department of Economic Security by A.R.S. §§ 8-511(A)(2), (A)(3), (B) and (C) and 8-512.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

R6-5-6003. Definitions

- A. "Adjudicated child". A child adjudicated by the court as dependent, neglected or delinquent residing in a licensed foster family home or child welfare agency.
- B. "Ambulatory care institution". A health care institution licensed by the Arizona Department of Health Services with inpatient beds providing limited hospital services on an outpatient basis including an outpatient surgical center and an outpatient treatment center.
- C. "Ancillary services". Special services and items furnished to an institutional recipient, which are separately payable in addition to the daily room and board charge.
- D. "Authorization". An approval given by the designated Departmental representative or representative of the fiscal intermediary to a specific medical/dental provider to render services or items to a specific recipient.
- E. "Claim". The invoice submitted by the medical/dental provider for reimbursement for covered services.
- F. "Comprehensive Medical/Dental Program for Foster Children". The name for the program authorized by legislation and regulated as shown herein by the Department.
- G. "Covered services". As defined in R6-5-6005.
- H. "Dentist". An individual licensed to practice dentistry and/or oral surgery by the appropriate regulatory board of the state of Arizona. The term shall include such individual only when practicing within the scope of the license.
- I. "Department". The Department of Economic Security.

- J. "Director". The Director of the Department of Economic Security.
- K. "Emergency dental services".
 1. Those services necessary to control bleeding, relieve pain, eliminate acute infections.
 2. Operative procedures which are required to prevent pulpal death and the imminent loss of teeth.
 3. Treatment of injuries to the teeth or supporting structures.
 4. Palliative therapy for pericoronitis associated with impacted teeth.
 5. Reduction of maxillary and mandibular fractures.
- L. "Emergency services". Those services required for alleviation of severe pain or for immediate diagnosis or treatment of an unforeseen medical condition which, if not immediately diagnosed and treated, would lead to rapid deterioration of the health status.
- M. "Eye care services". Diagnostic eye examinations to detect the presence or absence of ocular abnormality or visual disability, treatment related thereto, and the dispensing of eye glasses or other optical devices, when necessary, to improve visual performance.
- N. "Eye glasses". Frames with lenses prescribed by an ophthalmologist, other licensed medical practitioner or optometrist to aid or significantly improve visual performance.
- O. "Foster care provided". A home or child-caring agency licensed by the state as a foster home, group home or child welfare agency, which provides care and maintenance for foster children.
- P. "Foster child". A child adjudicated by the court as dependent, neglected or delinquent or on whom the parent(s) have signed the necessary paperwork for voluntary foster care and who are residing in a licensed foster home or child welfare agency.
- Q. "Hearing aid". Any wearable instrument or device designed for or represented as aiding, improving or compensating for defective human hearing, and any parts, attachments or accessories of such instrument or device, including earmolds.
- R. "Hearing aid evaluation". The application and interpretation of a battery of tests by an otolaryngologist, otologist, other licensed medical practitioner or audiologist to determine if amplification may be advantageous to an individual's hearing and what parameters of amplification are required to obtain a satisfactory result.
- S. "Identification card". A plastic card for each foster child issued by the Department to establish the identity of the child eligible for the covered services.
- T. "Inpatient". A person who has been admitted to a hospital or skilled nursing facility for bed occupancy for purposes of receiving inpatient services. A person will be considered an inpatient when formally admitted as an inpatient, i.e., when admitted for a period of more than 12 hours or through the census hour.
- U. "Inpatient hospital services". Those services and items furnished by the hospital for the care and treatment of inpatients under the direction of a physician or dentist.
- V. "Inpatient hospital services". Those services and items furnished by the hospital for the care and treatment of inpatients under the direction of a physician or dentist.
- W. "Legend drugs". Those drugs which, under federal or state law or regulations, may be dispensed only by prescription.
- X. "Medical/dental provider". Any person, institution or entity which provides covered services to an eligible foster child recipient under the program.
- Y. "Medical equipment". Durable items and appliances that can withstand repeated use, are designed primarily to serve a medical purpose and are not generally useful to a person in the absence of a condition, illness or injury.

- Z.** "Nursing services". Those services that are performed by or under the supervision of a registered nurse at the direction of a licensed practitioner.
- AA.** "Ophthalmologist". A licensed medical practitioner who specializes in the diagnosis and treatment of the eye and its related structures.
- BB.** "Optometrist". A person registered with the state medical board to practice optometry.
- CC.** "Orthodontic condition". A clinically obvious physical abnormality of tooth and/or jaw relationships.
- DD.** "Orthopedic devices". Supportive or corrective devices used for treatment of a musculoskeletal abnormality or injury.
- EE.** "Otolaryngologist". A licensed medical practitioner whose practice is limited to the specialty of conditions or disease of the ear, nose and throat and who qualifies as a specialist in those areas.
- FF.** "Otolologist". A physician who limits his practice to the specialty of conditions and diseases of the ear and who qualifies as a specialist in this area.
- GG.** "Outpatient". Not an inpatient.
- HH.** "Palliative services". Those services required to reduce the severity or relieve the symptoms of a condition, illness or injury.
- II.** "Physical therapist". A person registered to practice physical therapy.
- JJ.** "Physical therapy services". Those services provided by or under the supervision of a physical therapist.
- KK.** "Physician". An individual licensed to practice medicine or medicine and surgery (including an osteopathic practitioner), a podiatrist or an optometrist. The term shall include such individuals who have been granted a license to practice by the appropriate regulatory board of the state of Arizona and shall include them only when they are practicing within the scope of such license. The term shall also include a Christian Science practitioner recognized by the Mother Church and listed as such in the "Christian Science Journal".
- LL.** "Prescription". An order to a provider for covered services issued, signed and transmitted by an individual authorized to prescribe such services.
- MM.** "Preventive services". Those health services designed to forestall a condition, illness or injury.
- NN.** "Prior authorization". This term shall have the definition given it by the terms and procedures of R6-5-6007.
- OO.** "Prosthesis". An artificial substitute for a missing body part including but not limited to an arm, leg, eye, tooth, etc.
- PP.** "Psychologist". An individual certified by the State Board of Psychologist Examiners.
- QQ.** "Radiological services". Professional and technical X-ray and radioisotope services ordered by a licensed medical practitioner or dentist for diagnosis, prevention, treatment or assessment of a medical condition. Radiological services includes portable X-ray, radioisotope, medical imaging and radiation oncology.
- RR.** "Rehabilitation services". Physical, occupational, speech and respiratory therapy, audiology services and other restorative services and items ordered by a physician to attain maximum reduction of physical or mental disability and restoration of the individual to an optimum functional level.
- SS.** "Routine physical examinations". Medical examinations performed without relationship to treatment or diagnosis of a specific condition, illness or injury. This includes physical examinations for employment.
- TT.** "Skilled nursing facility". A health care institution which is licensed by the Department of Health Services as a skilled nursing facility.
- UU.** "Speech therapist". A person who has been granted the Certificate of Clinical Competence in the American Speech and Hearing Association or who has completed the equivalent educational requirements and work experience required for such a certificate.
- VV.** "Therapeutic services". Those curative services required for treatment of a condition, illness or injury and includes acute, chronic and emergency care.
- WW.** "Treatment plan". That portion of the authorization process which requires that the attending physician and other professional allied health personnel involved in the care of a recipient establish and review periodically a plan of treatment and care for each recipient.
- XX.** "Fee schedule". Allowable amounts established by the Department for medical, dental, and psychological care for foster children.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6004. Eligibility

- A.** The Department shall pay or cause to be paid the cost of necessary covered services, up to the maximum allowed by the fee schedule, rendered to children who are:
1. Placed in a licensed foster home or licensed child welfare agency by:
 - a. The Department of Economic Security; or
 - b. The Department of Corrections; or
 - c. The Juvenile Probation Office.
 2. Placed in a licensed receiving foster care facility (shelter care).
 3. Or for whom temporary custody has been awarded to the Department, and who are placed in a hospital for care and treatment.
- B.** Children born to an eligible foster child (as defined in paragraph (A) of this Section) shall be eligible for payment of routine newborn care and treatment up to and including the third day of life. This period may be extended where the need is established by such persons as the Director shall designate.
- C.** Persons under the age of 21 who were placed in a foster family home or institution prior to the age of 18, and who voluntarily remain in such care and who are currently enrolled in and regularly attending any high school.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

Amended effective May 25, 1979 (Supp. 79-3).

R6-5-6005. Definition of covered services

Comprehensive medical/dental services shall include but not be limited to the following covered services:

1. A complete preplacement medical examination prior to the initial foster placement in a regular or special foster home. Such examination shall include as a minimum:
 - a. Vaccinations to prevent mumps, rubella, smallpox and polio if not previously provided to the foster child.
 - b. Tests for anemia, coccidioidomycosis and tuberculosis.
 - c. Urinalysis, blood count and hemoglobin tests.
 - d. Standard medical procedures used for determining the recipient's general health, hearing and vision, including prescribing corrective devices when needed.
 - e. Further evaluation and diagnosis as is medically necessary.

2. Periodic medical examinations, not less than once each year, subsequent to initial placement for a child placed in a setting other than his parents' home.
3. Inpatient care. Benefits shall be paid for necessary inpatient hospital or skilled nursing facility care, including diagnosis and treatment, for physical or mental illness, for injury or for pregnancy, and shall include items and services which are ordered pursuant thereto by a physician, dentist or psychologist and which are ordinarily furnished by the hospital or skilled nursing facility for care and treatment of inpatients. Included shall be:
 - a. Bed and board, including dietary services and general nursing care, in a semi-private room (i.e., room with two or more beds) or a private room if medically necessary.
 - b. Professional services furnished through or by the hospital, including the services of a physician, dentist or psychologist; physical therapy; rehabilitation services; and medical social services.
 - c. Ancillary services as follows:
 - i. Laboratory, therapeutic and diagnostic services including radiological services.
 - ii. Use of operating room, recovery room emergency room and intensive care.
 - iii. Drugs, blood, oxygen, medical supplies, equipment and appliances related to care and treatment in the hospital.
 - iv. Prosthetic and orthopedic devices.
4. Inpatient professional care. To include surgery, assistance at surgery, administration of anesthesia, hospital visits and consultations, professional administration and interpretation of laboratory and radiological procedures and test results, and other necessary care and procedures and rendered by a physician, dentist or psychologist in accordance with all rules and regulations of the hospital.
5. Outpatient professional evaluation, care and treatment. To include preventive, palliative, diagnostic, therapeutic, rehabilitative, surgical, or other such items and services which are administered or provided on an outpatient basis for the necessary diagnosis or treatment of injury, pregnancy, physical or mental illness.
6. Laboratory and x-ray services ordered by a physician, dentist or psychologist for diagnosis and treatment.
7. Dental care provided by or under the direct supervision of a dentist. To include oral examinations, diagnostic radiography, oral prophylaxis, topical fluoride applications, restoration of permanent and primary teeth, pulp therapy, extraction when necessary, fixed space maintainers where needed, oral hygiene instruction, orthodontia and other service procedures necessary for relief of pain and infection.
8. Prescription and non-legend drugs prescribed by a physician or dentist.
9. Ambulance services.
10. Private duty nursing.
11. Injections, immunizations, allergy testing and treatment.
12. Physical therapy, speech therapy, respiratory therapy, radiation therapy, etc.
13. Electrocardiograms, electroencephalograms and other similar diagnostic procedures.
14. Medical equipment, corrective medical appliances and orthopedic devices or prostheses.
15. Services of an ambulatory care institution.
16. Eye care services and eyeglasses.
17. Hearing evaluations, hearing aid evaluations and hearing aids.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

R6-5-6006. Exceptions, limitations and exclusions

The Department shall not pay for:

1. The cost of any covered service which is not medically necessary for prevention, diagnosis or treatment of a condition, illness or injury.
2. That portion of the cost of any covered service which exceeds the charges set by the fee schedule. The medical/dental provided is hereby prohibited from rendering a bill for additional amounts to the Department, its representatives, any fiscal intermediary the Department may contract with to administer this program, the foster child, his guardian, his estate, the foster child's foster parents, his natural parents or any other party.
3. The cost of care and services payable through any federal, state, county or municipal program to which an eligible foster child may be entitled except for the cost of care and services in excess of any such program.
4. The cost of care and services payable through an insurance carrier which provides coverage for the eligible foster child except for the cost of care and services in excess of any such insurance benefits.
5. Psychiatric or psychological evaluations and treatment unless performed or ordered by a licensed medical practitioner or psychologist certified by the State Board of Psychologist Examiners.
6. Any expenses submitted for reimbursement after 180 days following provision or delivery or otherwise covered services.
7. Any service or item furnished primarily for cosmetic purposes rather than for the correction of defects resulting from a condition, illness or injury. In determining whether a service is furnished primarily for cosmetic purposes, consideration will be given to the eligible foster child's psychological welfare and future occupational opportunities. Orthodontic services are included in this category.
8. Non-legend drugs which are not prescribed by a physician or dentist.
9. Care and services rendered to an individual who is not an eligible foster child.
10. Any covered service for which no charge would have been rendered in the absence of this program.
11. Any admission, service, item, or otherwise covered service requiring prior authorization where such authorization has not been obtained or has been denied.
12. Services of naturopaths and chiropractors.
13. Psychological services or other diagnostic or treatment services for a foster child in a child welfare agency which provides such care as part of its contractual services which are already paid for by the Department, including services provided by the agency's staff.
14. Care and services rendered to a foster child under the Bureau of Indian Affairs foster care program.
15. Care and services rendered a foster child placed in Arizona by another state whether voluntarily or under jurisdiction of the court of another state.
16. Non-medical items such as, but not limited to, slippers, hair cuts, snack bar merchandise, shampoos and writing paper.
17. The following dental care services:
 - a. Any care which requires prior authorization and for which prior authorization was not sought or was sought but was not granted, unless ordered by the Court.

- b. Oral hygiene instruction which exceeds \$6.00 per fiscal year.
- c. Porcelain-fused-to-metal crowns.
- d. Acrylic veneered gold crowns whose position in the mouth is posterior to the second bicuspid.
- e. Full crowns except when teeth cannot be restored by a pin-reinforced restoration.
- f. Gold inlays.
- g. Temporary restorations, except to the extent they are considered part of and paid for as a part of the finished restoration.
- h. Building up any tooth, except to the extent it is considered part of and paid for as a part of the finished restoration.
- i. Building up a tooth beneath a crown.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6007. Prior authorization

- A. As hereafter more fully described, authorization is required before certain covered services are rendered in order for those services to be paid for under this Article and A.R.S. §§ 8-511 and 8-512.
- B. Payment will not be made for any covered service which requires prior authorization and either
 - 1. Was not submitted for such prior authorization or
 - 2. Was submitted but such prior authorization was not granted.
- C. Any medical/dental provider is hereby prohibited from rendering a bill for charges subject to prior authorization which are not granted prior authorization, such prohibition extending to charges rendered to the Department, its representatives, any fiscal intermediaries the Department may contract with to administer this program, the foster child, his guardian, his estate, the foster child's foster parents, his natural parents or any other party.
- D. Prior authorization shall not be required for the following covered services as actually provided or proposed to be provided:
 - 1. Services necessary to care for acute physical illness, chronic physical illness, acute injury or pregnancy insofar as treatment is consistent with the diagnosis.
 - 2. Emergency services in all instances, including emergency dental services.
 - 3. Complete preplacement examination as required by A.R.S. § 8-511(A)(2).
 - 4. First- and second-year well-baby care not to exceed a total of \$200 for both years.
 - 5. Initial dental examination and treatment indicated thereby but not to exceed \$50 per fiscal year.
 - 6. Emergency inpatient psychiatric care not to exceed ten inpatient days.
 - 7. Rental or purchase of medical equipment when accompanied by physician prescription where cost does not exceed or could reasonably be expected not to exceed \$25 per fiscal year in the aggregate for all such costs in one fiscal year.
 - 8. Prescription and non-legend drugs which are necessary to the foster child's medical care and appropriate to his treatment regimen.
 - 9. Eyeglasses for which the cost does not exceed \$60 per pair, including lenses and frames, or which are replacement lenses and/or frames obtained more than 12 months following the preceding pair.
 - 10. Psychiatric or psychological diagnostic evaluation not to exceed \$200.

- 11. Initial psychiatric or psychological interview not to exceed \$50.

E. Prior authorization shall be required for the following covered services:

- 1. Psychiatric or psychological therapy, whether proposed on an individual or group.
- 2. Continuation of therapy shown in (1) above past ten outpatient sessions, and thereafter in accordance with appropriate judgment as to what constitutes necessary care as determined from the treatment plan and/or medical record.
- 3. Inpatient psychiatric care beyond ten consecutive inpatient days, and thereafter in accordance with appropriate judgment as to what constitutes necessary care as determined from the treatment plan and/or hospital record.
- 4. Elective (non-emergency) surgery and expenses associated with such surgery.
- 5. First- and second-year well-baby care which exceeds or is expected to exceed a total of \$50 for both years.
- 6. Eyeglasses costing more than \$60, including lenses and frames, or which are replacement lenses and/or frames obtained less than 12 months following the preceding pair.
- 7. The following specific types of dental care:
 - a. Any service or combination of services which exceeds \$50 in any fiscal year.
 - b. Any treatment plan which proposes a full crown or crowns.
 - c. Any treatment plan which involves replacement of any tooth or teeth, by either removable or fixed appliances.
 - d. Any treatment plan which proposes a fixed bridge.
 - e. Any treatment plan which proposes a partial denture.
 - f. Any treatment plan which proposes treatment of a dentofacial abnormality (orthodontic services).
- 8. Rental or purchase of medical equipment (unless necessary due to a medical emergency) when accompanied by physician prescription.
- 9. Outpatient therapy services and treatment modalities such as, but not limited to, speech therapy, physical therapy, respiratory therapy, and radiation therapy.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6008. Coordination of benefits

- A. The Department shall determine the possible existence of any primary insurance coverage for all eligible foster children at the time the need for foster care is established. The possible existence of such coverage shall be redetermined at least every six months.
- B. The Department shall request the court to include a statement in its court order requiring parent(s) or guardian of adjudicated children to cooperate with Department of Economic Security in coordinating benefits with any existing health insurance carrier and to maintain any health insurance coverage presently existing which covers the child(ren).
- C. The Department shall advise the court when parent(s) or guardian of adjudicated children refuse to cooperate with Comprehensive Medical/Dental Program (CMDP) in providing and/or signing appropriate documents required in order to coordinate insurance benefits, or fail to maintain any existing insurance coverage for the child.
- D. In voluntary placements, the parent(s) or guardian must cooperate with Comprehensive Medical/Dental Program (CMDP)

in providing and/or signing appropriate documents required to coordinate health insurance benefits.

- E. In the absence of health insurance coverage, the Department shall determine what additional resources are available to cover medical and dental costs.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6009. Identification card

- A. The Department shall issue, or cause to be issued, an identification card for each eligible foster child.
- B. The caseworker shall apply for an identification card for the eligible foster child.
- C. The Department shall immediately upon placement inform the foster care provider in writing that the identification card is not transferable and that the card is to be used only for medical/dental covered services for the foster child whose name appears on the card only so long as said foster child shall remain eligible under this Program.
- D. The foster care provider shall be given oral and written instructions regarding the use of the identification card when procuring medical and dental care for the eligible foster child.
- E. When an eligible foster child is terminated from foster care, the foster care provider shall immediately return the identification card to the Department.
- F. The foster care provider shall return the identification card to the Department seven days from the date an eligible foster child runs away from the foster care provider.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

R6-5-6010. Payment and review of claims

- A. Claims for payment shall be submitted by medical/dental providers in the manner prescribed by the Department.
- B. Claims for payment for covered expenses shall not be paid if an appointment is not kept and/or if covered services were not rendered or provided.
- C. Claims for payment shall not be accepted or paid prior to the delivery of covered services.
- D. Claims for covered services shall be accepted from medical/dental providers both in and outside the state of Arizona.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

R6-5-6011. Abuse and misuse of the Program

- A. The Department shall establish a procedure to investigate any alleged abuse of the Comprehensive Medical/Dental Program. If abuse is substantiated, administrative or legal action shall be taken.
- B. The Department shall monitor the activity of the Comprehensive Medical/Dental Program to insure compliance with the program requirements.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

R6-6-6012. Consent for treatment

- A. For an eligible foster child adjudicated by the court, the Department shall secure a court order and, if possible, the consent of the parent or guardian for surgery, general anesthesia, blood transfusion, or pelvic examination of a child.
- B. For a foster child in voluntary placement, consent of the parent or guardian shall be necessary only for medical treatment involving surgery, general anesthesia, blood transfusion, or

pelvic examination of a child, except for emergency situations described in paragraph (C).

- C. In cases of emergency, in which a foster child is in need of immediate hospitalization, medical attention or surgery, and when the parents cannot readily be located, the foster care provider or caseworker may give consent pursuant to A.R.S. § 44-133 for hospital care, medical attention or surgery.
- D. Persons under the age of 21 who were placed in a foster family home or institution prior to the age of 18, and who voluntarily remain in such care, and who are currently enrolled in and regularly attending any high school may give consent for their own treatment.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective May 25, 1979 (Supp. 79-3).

R6-5-6013. Administration of the Program

- A. The Department shall have the ability to contract with any insurer, insurance plan, hospital service plan, or any health service plan authorized to do business in this state, or with any fiscal intermediary or with any combination of such plans or methods. Such contract will be entered into for purposes of administering this Comprehensive Medical/Dental Program for foster children in a manner consistent with its authorizing legislation and these regulations.
- B. Such contract, if entered into by the Department, shall be specific as to the responsibilities of each party to the contract and shall provide for reasonable payment to the contractor for his administrative services as required by the contract.
- C. The terms of such contract, if entered into by the Department, shall reflect these regulations. If the Department and the contractor, in the future, determine that certain additions, deletions, corrections or alterations in the contract are required so as to cause the administration of the program to be consistent with the authorizing legislation, these regulations and the intents thereof, such additions, deletions, corrections or alterations shall be made in the contract by mutual written consent, signed by authorized representatives of the Department and the contractor, without first having to alter these regulations.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-1).

R6-5-6014. Case management

- A. Determining financial need. Financial eligibility for the CMDP is limited to foster children who reside in licensed facilities.
- B. Case management
 1. Confidentiality. The rules and regulations of the Department regarding the disclosure and use of confidential information concerning the client, as set forth in A.C.R.R. Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information" shall apply to all services provided under this Article.
 2. Appeals. The rules and regulations of the Department set forth in A.C.R.R. Title 6, Chapter 5, Article 25, "Complaints and Appeals" shall apply to all services provided under this Article.
 3. The rules and regulations of the Department set forth in A.C.R.R. Title 6, Chapter 5, Article 26, "Civil Rights" shall apply to all services provided under this Article.
- C. Closing the service. Service shall be closed when the child is no longer in foster care.

Historical Note

Adopted effective March 11, 1977 (Supp. 77-2).

Amended effective March 28, 1978 (Supp. 78-2).

R6-5-6015. Fee schedule

- A. The Comprehensive Medical and Dental Program shall pay providers in accordance with the established fee schedule unless otherwise specified by contract or required by this Article.
- B. A current fee schedule shall be maintained in the central office of the CMDP for reference use during customary business hours. Relevant information or portions of the fee schedule shall be made available to service providers and other interested persons on request.

Historical Note

Adopted effective May 15, 1990 (Supp. 90-2).

EXHIBIT 1. REPEALED**Historical Note**

Exhibit as filed is incomplete. Exhibit adopted effective March 28, 1978 (Supp. 78-2). Amended by adding Maximum Allowable Anesthesia Fee Schedule effective April 17, 1980 (Supp. 80-2). Amended Medicine - Psychiatric Services; Radiology - Urinary Tract; Dental - Restorative, Endodontics, and Fixed Prosthodontics effective September 17, 1980; Maximum Allowable Anesthesia Fee Schedule not included (Supp. 80-5). Repealed effective May 15, 1990 (Supp. 90-2).

ARTICLE 61. REPEALED**R6-5-6101. Repealed****Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6101 repealed, new Section R6-5-6101 adopted effective August 29, 1984 (Supp. 84-4). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6102. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6102 repealed, new Section R6-5-6102 adopted effective August 29, 1984 (Supp. 84-4). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6103. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6103 repealed, new Section R6-5-6103 adopted effective August 29, 1984 (Supp. 84-4). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6104. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Section R6-5-6104 repealed, new Section R6-5-6104 adopted effective August 29, 1984 (Supp. 84-4). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6105. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

R6-5-6106. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

R6-5-6107. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

R6-5-6108. Repealed**Historical Note**

Adopted effective August 11, 1976 (Supp. 76-4). Former Sections R6-5-6105 through R6-5-6108 repealed effective August 29, 1984 (Supp. 84-4).

ARTICLE 62. REPEALED

Former Article 62 consisting of Sections R6-5-6201 through R6-5-6209 repealed effective August 29, 1984.

ARTICLE 63. REPEALED

Former Article 63 consisting of Sections R6-5-6301 through R6-5-6304 repealed effective November 8, 1982.

ARTICLE 64. REPEALED

Former Article 64 consisting of Sections R6-5-6401 through R6-5-6408 repealed effective February 1, 1979.

ARTICLE 65. DEPARTMENT ADOPTION FUNCTIONS AND PROCEDURES FOR PROVIDING ADOPTION SERVICES**R6-5-6501. Definitions**

In addition to the definitions in A.R.S. § 8-101, the following definitions apply in this Article and in Articles 66, 70, and 71, unless the context requires otherwise:

1. "Adoptable child" means a child who is legally available for adoption but who has not been placed for adoption.
2. "Adoptee" means a child who is the subject of a legal petition for adoption.
3. "Adoption agency" has the same meaning ascribed to "agency" in A.R.S. § 8-101(2).
4. "Adoption entity" or "entity" means a person or organization performing a particular adoption service, and includes an adoption agency and the Department but does not include a private attorney who is licensed to practice law in the state of Arizona and who is only assisting in a direct placement adoption to the extent allowed by A.R.S. § 8-130(C).
5. "Adoption placement" or "placement" means the act of placing an adoptable child in the home of an adoptive parent who has filed, or who contemplates filing, a petition to adopt the child.
6. "Adoption services" means activities conducted in furtherance of an adoption and includes the activities listed in R6-5-6504 and R6-5-7002(B).
7. "AHCCCS" means the Arizona Health Care Cost Containment System established pursuant to A.R.S. Title 36, Chapter 29.
8. "AHCCCSA" means the Arizona state government agency which administers the AHCCCS program.
9. "Birth parent" means the biological mother or father of a child.
10. "Central Adoption Registry" or "Registry" means the computerized bank of information described in A.R.S. § 8-105(O).
11. "Certification application" means the form which a prospective adoptive parent submits to an adoption entity or to the court to request a certification investigation.
12. "Certification investigation" means the process referred to in A.R.S. § 8-105(C) by which an adoption entity

- determines if a prospective adoptive parent is a fit and proper person to adopt.
13. "Certification order" means a judicial determination that a prospective adoptive parent is a fit and proper person to adopt.
 14. "Certification report" or "adoptive home study" means the written report described in A.R.S. § 8-105(H) in which an adoption entity summarizes the results of a certification investigation and makes a recommendation for or against certification of a prospective adoptive parent.
 15. "Certified adoptive parent" means a person who has been certified as fit and proper to adopt and who is awaiting placement of an adoptable child.
 16. "Child with special needs" means a child who has 1 of the special needs listed in A.R.S. § 8-141(A)(14).
 17. "Client" means a person who is receiving adoption services from an adoption entity and includes adoptive children, adoptive families, adoptive parents, and birth parents.
 18. "CPS" means Child Protective Services, a Department program responsible for investigating reports of child abuse or neglect.
 19. "CPSCR" means the Child Protective Services Central Registry, a computerized data bank of information concerning reports of child abuse or neglect, which CPS maintains pursuant to A.R.S. § 8-546.03.
 20. "Department" has the same meaning ascribed to "Division" in A.R.S. § 8-101(7).
 21. "Developmentally appropriate" means an action which takes into account:
 - a. A child's age and family background;
 - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
 - c. The individual child's pattern and history of growth, personality, and learning style.
 22. "Document" means to make and retain, in a record or file, a written summary of a fact, a contact, a communication, an observation, or an event.
 23. "Final report to the court" means a written report about an investigation which an adoption entity performs pursuant to A.R.S. § 8-112, in which the entity advises the court of the entity's assessment and recommendations about finalization of a particular adoption.
 24. "Foster parent" has the same meaning prescribed in A.R.S. § 8-501(A)(5).
 25. "ICPC" means the Interstate Compact on the Placement of Children described in A.R.S. § 8-548.
 26. "ICWA" means the Indian Child Welfare Act described in 25 U.S.C. 1901 et seq.
 27. "License" means a document that the Department issues to an agency authorizing the agency to perform adoption services.
 28. "License applicant" means a person, group, or business entity which seeks to become licensed or to renew a license as an adoption agency.
 29. "Open adoption" means an adoption in which the adoptive parent and the birth parent agree to a full exchange of personally identifying information and to meet each other at the time of adoption, and to have ongoing written or personal contact with each other in the future.
 30. "Out-of-state agency" means any person who, or business which, is authorized or licensed by a state other than Arizona, or a foreign country, to perform adoption services.
 31. "Placed child" means an adoptable child who has been placed with an adoptive parent and the adoptive parent has not yet filed a petition to adopt the child.
 32. "Placement investigation" means the process referred to in A.R.S. § 8-105(F) by which an adoption entity determines if a particular placed child is suitable for adoption by a particular adoptive parent.
 33. "Placement report," "report to the court on placement of a child," or "RCPC" means the written report described in A.R.S. § 8-105(I) in which an adoption entity summarizes the results of the placement investigation and makes a recommendation as to whether a particular child is suitable for adoption by a particular adoptive parent.
 34. "Placement supervision period" or "probationary period" means the time period from the date of adoption placement until the court enters a final order of adoption, during which the petitioner has the rights prescribed in A.R.S. § 8-113(D).
 35. "Prospective adoptive parent" means a person who has applied to an adoption entity to become certified to adopt a child.
 36. "Reasonable fee" means
 - a. A fee commensurate with:
 - i. The actual cost of providing a specific service or item to a specific individual, or
 - ii. The average cost of a service or item if the adoption entity routinely uses an averaging method to determine the cost of a particular service or item.
 - b. A reasonable fee may include reasonable compensation for officers and employees and a reasonable profit margin above actual or averaged costs. As used in this Section, reasonableness is determined as prescribed in R6-5-6503(G).
 37. "Semi-open adoption" means an adoption in which the adoptive parent and the birth parent agree to share some personally identifying information or to have 1 meeting at the time of adoption and which may include some form of limited communication in the future, such as exchange of annual letters or photographs.
 38. "Social study" or "home study" means the investigation an adoption entity performs, pursuant to A.R.S. § 8-112, after a petition for adoption has been filed.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6502. Central Adoption Registry: Information Maintained; Confidentiality

- A. The Department shall maintain and keep current the Central Adoption Registry in accordance with A.R.S. § 8-105(O). The Registry shall include the following current information for each child or adoptive parent listed on the Registry:
 1. The child's availability for adoptive placement,
 2. The adoptive family's certification status,
 3. The adoptive family's availability for adoptive placement, and
 4. The type of child the adoptive family is open to considering for adoption.
- B. Upon request, the Department shall provide personally identifiable Registry information to:
 1. Licensed adoption agencies, including out-of-state agencies;
 2. Adoption registries and exchanges; and
 3. The Court.

- C. Before providing information, the Department shall obtain, from the person requesting the information, the following:
1. The name and affiliation of the person requesting the information;
 2. The reason for the request; and
 3. If the requesting party is other than a court representative, a signed statement acknowledging that the information is confidential and promising not to release the information to anyone except as allowed by A.R.S. §§ 8-120 and 8-121.
- D. In lieu of the signed statement described in subsection (C)(3), the Department shall accept a signed commitment to treat all Registry information in accordance with the provisions of subsection (C)(3). The signed commitment is effective for 1 year and shall be annually renewed.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6503. Department Review of Adoption Expenses

- A. A petitioner filing the accounting required by A.R.S. § 8-114(E) shall do so on a Department form which shall include the following information:
1. The adoptive child's name and date of birth, and, when AHCCCSA indicates that the child has AHCCCS coverage or when an AHCCCS application is pending, the child's AHCCCS identification number;
 2. The name of the petitioning adoptive parent;
 3. The case number, court, and jurisdiction in which the case is pending;
 4. The name and address of any agency or attorney for the petitioner;
 5. An itemized breakdown of payments the petitioner, or a person acting on behalf of the petitioner, has made or agreed to make to any agency and any attorney assisting with the adoption;
 6. An itemized breakdown of payments the petitioner, or person acting on behalf of the petitioner, has made or agreed to make for adoption costs, including the following:
 - a. Medical care, stated separately for the birth mother and the adoptive child;
 - b. Counseling;
 - c. Legal services; and
 - d. Other fees and services, including:
 - i. Application fees,
 - ii. Court costs,
 - iii. Birth mother living expenses,
 - iv. Fingerprinting fees, and
 - v. Transportation expenses; and
 7. The signatures of the petitioner filing the form and, if applicable, the petitioner's attorney, and a representative from the petitioner's agency.
- B. If any of the payments listed on the form represent averaged fees rather than actual costs, the petitioner shall so indicate on the form.
- C. If the actual amount of an expense is not known when the accounting is filed, the petitioner shall estimate the expense, note that the figure is estimated rather than actual, and explain how the actual figure will be calculated or determined.
- D. The petitioner shall file the form with the Department's Division of Children and Family Services, Adoptions Unit, at the Department's central headquarters in Phoenix, Arizona.
- E. The Department may require a petitioner to supplement the form with copies of documentation supporting the information

provided on the form. Such supporting documentation may include:

1. Hospital bills,
 2. Physician bills,
 3. Statement of attorney's fees,
 4. Explanation of insurance benefits,
 5. Birth parent rent receipts, and
 6. Travel receipts.
- F. The Department shall send the petitioner, or the petitioner's designee, written notice specifying any supporting documentation that the Department may require.
- G. In determining whether expenses are reasonable and necessary pursuant to A.R.S. § 8-114(E), the Department shall consider the factors listed in A.R.S. § 8-114(B) and the following factors:
1. The actual cost to the agency of the service provided;
 2. An agency's practice of charging an average fee for a service or item;
 3. The costs typically charged in the community for the same service or item;
 4. Any special, unique, or complicating factors in the case; and
 5. Whether the costs incurred were essential to the adoption.
- H. If the Department finds that a particular expense is not reasonable or necessary, or is not supported by documentation provided pursuant to subsections (D) and (E), the Department shall recommend disapproval of that expense in the report it submits to the Court pursuant to A.R.S. § 8-114(F).

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6503.01. Department Review of Adoption Expenses Under the ICPC

- A. A sending agency or attorney filing the accounting required by A.R.S. § 8-114.01 shall do so on the form prescribed by R6-5-6503(A) and (B).
- B. The form shall be filed with the Department of Economic Security's office which administers the ICPC.
- C. The Department's ICPC office may require additional information as prescribed in R6-5-6503(D).

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6504. Department Adoption Services

- A. The Department provides the following adoption services in accordance with the limitations and provisions of A.R.S. Title 8, Chapter 1, Article 1:
1. Recruiting prospective adoptive parents;
 2. Informing persons interested in adopting a child about the adoption process;
 3. Conducting certification investigations of prospective adoptive parents as provided in A.R.S. § 8-105(C), (D), and (E);
 4. Preparing certification reports as provided in A.R.S. § 8-105(E) and (H);
 5. Taking adoption consents from birth parents;
 6. Preparing non-identifying, preplacement information on adoptive children for adoptive parents, as required by A.R.S. § 8-129(A);
 7. Submitting the names and profiles of adoptable children and certified adoptive parents for listing in the Central Adoption Registry;
 8. Preparing children for adoptive placement;

9. Matching adoptable children with certified adoptive parents;
 10. Placing adoptable children in the homes of certified adoptive parents;
 11. Investigating and reporting to the court on the suitability of particular placements as provided in A.R.S. § 8-105(F) and (I);
 12. Monitoring adoption placements during the placement supervision period;
 13. Providing services to placed children and adoptive families to assist with family adjustment to the adoption placement;
 14. Conducting social studies pursuant to A.R.S. § 8-112 and preparing final reports to the court; and
 15. Assisting county attorneys by providing legal documents to enable families to complete the adoption process.
- B.** When performing adoption services, the Department shall adhere to the standards established for adoption agencies in Articles 66 and 70.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6505. Department Procedures for Processing Certification Applications

- A.** Upon receipt of a certification application, the Department shall mail the applicant written notice that the application is either complete or incomplete. An application is complete when it contains the information and supporting documentation described in R6-5-6604. If the application is incomplete, the notice shall specify what information is lacking.
- B.** An applicant with an incomplete application has 30 calendar days from the date of the notice to provide the missing information. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to apply for certification, shall apply anew.
- C.** Upon receipt of a complete application, the Department shall decide whether to accept the application for processing, according to the priority schedule listed in R6-5-6506, and the availability of the Department's resources. If the Department cannot accept the application, the Department shall return the original application and all supporting documentation to the applicant.
- D.** After the Department accepts the completed application, the Department shall mail the applicant written notice of the acceptance and shall complete the certification investigation in accordance with the procedures specified in R6-5-6605 within 90 days of the date of notice. The Department shall prepare a certification report in accordance with R6-5-6606.
- E.** The Department shall process a renewal application in accordance with the requirements of this rule and R6-5-6607.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6506. Department Priorities for Receipt of Services

The Department shall accept and process certification applications and render adoption services according to the following priority schedule:

1. First priority: applicants seeking to adopt a particular adoptable child with special needs;

2. Second priority: applicants who wish to adopt a child with special needs;
3. Third priority: applicants who have indicated they would consider adopting a child with special needs;
4. Fourth priority: applicants for whom the court has ordered the Department to do a certification investigation and report; and
5. Fifth priority: all other applicants.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6507. Department Recruitment Efforts

The Department shall actively recruit persons to adopt children with special needs by:

1. Publicizing the need for such adoptive parents;
2. Registering adoptable children, as appropriate, with the following:
 - a. The Central Adoption Registry,
 - b. Arizona adoption agencies,
 - c. The National Adoption Exchange,
 - d. The Arizona Adoption Exchange Book, and
 - e. Other exchange books and publications;
3. Advising prospective adoptive parents of the availability of children with special needs, the procedures involved in adopting such children, and the support services and subsidies which may be available to persons adopting such children; and
4. Other measures similar to those described in this Section.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6508. Referrals to Other Sources

- A.** The Department shall offer certified adoptive parents, who are awaiting placement through the Department, the option of referral to the following adoption resources:
1. The National Adoption Exchange,
 2. The Arizona Adoption Exchange, and
 3. Other regional and national exchanges outside Arizona.
- B.** Upon request, and to the extent that resources are available, the Department may assist families interested in adopting a child with special needs with registration on the National Adoption Exchange and other regional and national exchanges outside Arizona. Such assistance may include sending the family's application to other adoption exchanges or computer banks.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6509. Fees

- A.** The Department shall charge the following fees for performing adoption services:
1. \$800.00 for performing a certification investigation and preparing a certification report, which is due with an applicant's completed application form; and
 2. \$50.00 for performing a records search for a confidential intermediary, as set forth in A.R.S. § 8-134.
- B.** The Department may waive or defer payment of part or all of a certification fee if the applicant demonstrates and the Department finds that payment of a fee would:
1. Cause the applicant financial hardship,

2. Be detrimental to an adoptive child, or
 3. Preclude the applicant from making application.
- C. An applicant who seeks a fee waiver or deferral shall file a written request for waiver explaining the reason for the request.
- D. The Department shall act on the request within 14 calendar days of receiving the request. If the Department denies the request, the Department shall notify the applicant of the denial in writing and advise the applicant to submit the fee to complete the application. Denial of a fee waiver is not appealable.

Historical Note

Adopted effective July 6, 1977 (Supp. 77-4). Amended effective November 22, 1978 (Supp. 78-6). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6510. International Adoptions

- A. The Department shall make available to prospective adoptive parents interested in adopting a foreign-born child, the names of international adoption agencies.
- B. The Department shall not provide adoptive supervision services to international adoption agencies unless there is no other resource to do so within the county where the child is placed, and the Department has the resources available to provide supervision without exceeding the standards for acceptable caseloads prescribed in R6-5-7020.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6511. Termination of Services

- A. The Department may terminate services to an adoptive parent in the following circumstances:
1. A child is placed, the adoption is finalized, and no further adoption-related services are required;
 2. The prospective or certified adoptive parent requests closure before receiving a child for placement;
 3. The prospective or certified adoptive parent ceases to be a resident of Arizona before receiving a child for placement;
 4. The court declines to certify the prospective adoptive parent;
 5. The prospective adoptive parent refuses to comply with requirements set forth in A.R.S. Title 8, Chapter 1, Article 1, or Articles 65 or 66 of these rules; or
 6. The prospective adoptive parent fails to submit a completed certification application within 90 days of the date on which the Department sent the person an application form.
- B. The Department may terminate services to an adoptive child when:
1. The Court issues a final adoption order; or
 2. The child's case management team determines that adoption is no longer the most appropriate case plan for the child, and the Department provides alternate services consistent with the child's new case plan.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

ARTICLE 66. ADOPTION SERVICES**R6-6-6601. Definitions**

The definitions in R6-5-6501 apply in this Article.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Amended effective August 15, 1980 (Supp. 80-4). Sec-

tion repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6602. Recruitment

- A. When recruiting clients, an adoption entity shall comply with the requirements of this Section.
- B. The adoption entity shall conduct recruitment efforts pursuant to a written plan, which shall describe:
1. Specific recruitment goals, including:
 - a. Number and composition of adoptive parents the entity will serve; and
 - b. The type of children the entity will accept for placement, if limited as to age, race, or other specific characteristics;
 2. Methods of recruitment;
 3. The number and professional qualifications of staff designated to handle recruitment; and
 4. The means by which the adoption entity shall fund its recruitment efforts.
- C. The adoption entity's recruitment efforts shall be consistent with the personal characteristics of the children the entity has available for adoption and reasonably expects will become available through the entity.
- D. An adoption entity shall not:
1. Promise to place more children than the entity's prior history shows it can reasonably expect to place,
 2. Promise to place a child in less time than the average waiting period demonstrated by the entity's past practice,
 3. Promise that an adoption will be subsidized prior to formal approval of an adoption assistance agreement which meets the requirements of A.R.S. § 8-141 et seq., or
 4. Make any other statements or promises the entity knows or reasonably should know are false, misleading, or inaccurate.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6603. Orientation: Persons Interested in Adoption

- A. Prior to accepting a certification application from a person contemplating adoption of a child, or an application for placement from a person who intends to seek a placement through the entity, an adoption entity shall provide the person with adoption orientation, which shall explain the following:
1. The adoption process, including all legally mandated procedures and estimated time-frames for completion of such procedures;
 2. The adoption entity's policies and procedures that directly affect services to adoptive parents;
 3. The adoption entity's fee structure and written fee agreement;
 4. The types and number of children the agency typically has had and reasonably expects to have available for adoption placement and the average length of time between certification and placement;
 5. The Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in R6-5-7034;
 6. The function of the Central Adoption Registry and the adoptive parent's right to decide whether to be included in the Registry;
 7. Confidentiality requirements, open adoptions, and the confidential intermediary program described in A.R.S. § 8-134; and

8. The requirements prescribed in A.R.S. § 8-548.07, to reimburse AHCCCSA for the cost of prenatal care and delivery of a child placed pursuant to the ICPC.
- B. A person who is already knowledgeable about all or part of the matters listed in subsection (A) may waive orientation on those matters which are familiar, with the approval of the adoption entity. A person may be knowledgeable due to a prior adoption through an Arizona adoption entity, or employment in adoption services, or for other similar reasons.
- C. An adoption entity shall maintain written documentation showing that any person who has applied to the entity for certification or for placement of a child has received the orientation described in subsection (A), as prescribed in R6-5-7027(1), or has obtained a waiver as prescribed in subsection (B). If some or all orientation is waived, the adoption entity shall document the matters waived and the reasons for the waiver.
- D. An adoption entity shall not charge a person for anything other than a certification application fee, or enter into an adoption fee agreement with a person, until the person has received the orientation described in subsection (A).
10. Information on the following legal proceedings in which the applicant has been a party:
 - a. Dependency actions,
 - b. Severance or termination of parental rights actions,
 - c. Child support enforcement actions,
 - d. Actions involving allegations of child maltreatment,
 - e. Adoption proceedings, or
 - f. Criminal proceedings other than minor traffic violations;
11. The applicant's prior history of adoption certification, including prior applications for certification and the dates of any certification denials;
12. An inquiry as to whether the applicant wishes to be listed on the Registry;
13. A fingerprint card on each applicant; and
14. The names, addresses, and phone numbers of 5 personal references who have known the applicant at least 2 years and who can attest to the applicant's character and fitness to adopt. At least 3 references shall not be related to the applicant by blood or marriage.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).
 Repealed effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6604. Application for Certification; Fees; Waiver

A person who wishes to become certified as an adoptive parent shall apply for certification as provided in A.R.S. § 8-105(A). An adoption entity shall require an applicant to provide at least the following information:

1. Personally identifying information for each prospective adoptive parent, including:
 - a. Name and date of birth;
 - b. Social Security number;
 - c. Race and nationality;
 - d. Physical description;
 - e. Current address and duration of Arizona residency; and
 - f. Marital history; and
 - g. The name, address, and phone number of immediate family members, including emancipated adult children;
2. The name, birthdays, and social security number of persons residing with the applicant;
3. A listing of the applicant's insurance policies, including any insurance that may be available to cover the medical expenses of a birth mother or adoptive child; the applicant shall specify the name of the insured, the insurance policy number, and the effective dates of coverage;
4. A current financial statement which shall describe the applicant's assets, income, debts, and financial obligations;
5. A physician's statement as to the applicant's current physical and mental health;
6. A medical and psychological history on the applicant and the applicant's household family members; such history may be a self-declaration of past physical and mental illness;
7. The applicant's employment history;
8. The applicant's social history;
9. A statement from the applicant as to the type of child the applicant seeks to adopt and whether the applicant desires to adopt or would consider adopting a child with special needs;

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6605. Certification Investigation

- A. Following acceptance of a completed certification application, the adoption entity shall conduct a certification investigation which shall include, at a minimum, the following:
 1. Personal interviews with the adoptive family. Such interviews shall:
 - a. Occur on at least 2 separate occasions, at least 1 of which shall be at the adoptive family's residence;
 - b. Comprise no less than 4 hours of face-to-face contact, at least 1 hour of which shall take place at the adoptive family's residence;
 - c. Include at least 1 separate interview with each member of the adoptive family's household who is age 5 or older; and
 - d. Include at least 1 joint interview with both adoptive parents if the adoptive family is a couple;
 2. Written statements from and personal contact (either a face-to-face meeting or a telephone call) with at least 3 of the applicant's personal references;
 3. An inquiry as to whether the applicant wishes to be listed in the Central Adoption Registry;
 4. Verification of the applicant's financial condition through a review of 1 or more of the documents listed in subsection (A)(7)(g) below;
 5. A request to the Department for a check of the CPSCR to determine if the applicant has a past record of complaints of child abuse or neglect;
 6. An evaluation of the success of the placement of other children adopted by the applicant;
 7. A review of any supporting documentation the adoption entity reasonably deems necessary to determine an applicant's fitness to adopt, which may include the following:
 - a. A physician's statement regarding the physical health of the applicant's other children;
 - b. A statement from a psychiatrist or psychologist regarding the mental health of the applicant or the applicant's other household members;
 - c. Birth certificates;
 - d. Marriage certificate;
 - e. Dissolution or divorce papers and orders, including child support documentation;

- f. Military discharge papers;
 - g. Financial statements, tax returns, pay stubs, and W-2 statements;
 - h. Bankruptcy papers;
 - i. Insurance policy information; or
 - j. Documentation showing Arizona residency.
- B.** A social worker who meets the qualifications listed in R6-5-7014 shall perform the certification investigation and shall document all personal contacts made and all information reviewed and considered during the investigation.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).
 Amended subsection (C) effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6606. Certification Report and Recommendation

- A.** Upon completion of the certification investigation, the adoption entity shall prepare a certification report in compliance with A.R.S. § 8-105(E) and (H).
- B.** In determining whether to recommend certification of an applicant, the adoption entity shall consider all factors bearing on fitness to adopt, including, but not limited to:
- 1. The factors listed in A.R.S. § 8-105(E);
 - 2. The length and stability of the applicant's marital relationship, if applicable;
 - 3. The applicant's age and health;
 - 4. Past, significant disturbances or events in the applicant's immediate family, such as involuntary job separation, divorce, or death of spouse, child, or parent, and history of child maltreatment;
 - 5. The applicant's ability to financially provide for an adoptee; and
 - 6. The applicant's history of providing financial support to the applicant's other children, including compliance with court-ordered child support obligations.
- C.** The certification report shall specifically note any instances where an applicant has:
- 1. Been charged with, been convicted of, pled no contest to, or is awaiting trial on charges of, an offense listed in A.R.S. § 46-141; or
 - 2. Lost care, custody, control, or parental rights to a child as a result of a dependency action or action to terminate parental rights.
- D.** If the report recommends denial of certification, the adoption entity shall send the applicant written notice of the unfavorable recommendation and an explanation of the applicant's right under A.R.S. § 8-105(M) to petition the court for review. The adoption entity shall mail the notice to the applicant at least 5 work days prior to filing the certification report with the court.
- E.** The adoption entity shall notify the prospective adoptive parent of the court's certification decision if the Court fails to do so.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).
 Amended effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6607. Renewal of Certification

- A.** A certified adoptive parent who has not filed a petition for adoption within 1 year of the original certification order, may apply for an extension of certification, as provided in A.R.S. § 8-105(K).
- B.** If the Court directs an adoption entity to investigate a certified adoptive parent who has requested a renewal of certification,

the entity shall obtain, from the adoptive parent seeking renewal, the following information:

- 1. A copy of the request for renewal of certification;
 - 2. A statement of any changes in the certified adoptive parent's social, family, medical, and financial circumstances;
 - 3. New fingerprint clearance at least every 3rd year following original certification;
 - 4. A current medical report for all members of the applicant's household at least every 3rd year following original certification; and
 - 5. Such other information as the Court may request.
- C.** When investigating a request for renewal of certification, the adoption entity shall, at a minimum, complete the following:
- 1. Conduct a face-to-face interview at the applicant's home with the applicant and the applicant's other household members over the age of 5,
 - 2. Investigate any change in circumstances described in the request for renewal as necessary to determine continuing fitness to adopt, and
 - 3. Document all action.
- D.** Upon completion of the renewal investigation, the adoption entity shall prepare and file with the Court a report of the investigation, which shall contain a recommendation for or against renewal of certification.
- E.** If the adoption entity recommends that certification not be renewed, the entity shall send the adoptive parent notice as prescribed in R6-5-6606(D).

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6608. Communications with Certified Parents Awaiting Placement

Upon request, an adoption entity shall inform a certified adoptive parent awaiting placement of a child of the following:

- 1. The status of the parent's case;
- 2. The number of children the agency currently has available for adoption;
- 3. The number of times the parent has been considered for placement of a child;
- 4. The number of approved families awaiting placement of a child through the agency; and
- 5. The number of placements the agency made in the prior year, the number of placements the agency has made to date in the current year, and the number of placements the agency anticipates making during the remainder of the current year.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6609. Prohibitions Regarding Birth Parents

An adoption entity shall not:

- 1. Promise a birth parent that the birth parent will have future contact with the child or the adoptive parent; the adoption entity may, however, explain the concepts of open adoption and semi-open adoption;
- 2. Promise a birth parent that the child will be placed with a specific family or type of family, except in a direct placement adoption; the adoption entity may, however, advise the parent that it will use its best efforts to honor any placement preferences the birth parent may have, to the

extent that such preference is consistent with the best interests of the child;

3. Promise a birth parent any financial or other consideration prohibited by law; or
4. Do or say anything to coerce or pressure a birth parent to sign a consent.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1).
Amended effective August 15, 1980 (Supp. 80-4). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6610. Information about Birth Parents

- A.** Before accepting a child for placement, the adoption entity shall make a good faith effort to obtain the information described in this Section from the child's birth parent, or person having custody of the child.
1. Information about each birth parent, including:
 - a. Name and any aliases used;
 - b. Address, phone number, and residential history;
 - c. Date and place of birth;
 - d. Social security number;
 - e. Race, citizenship, and any Native American tribal affiliation or membership;
 - f. Physical description;
 - g. Name of current employer and employment history;
 - h. Educational history;
 - i. Marital history and status;
 - j. Record of other births and children born to the birth parent;
 - k. Hobbies;
 - l. Future plans;
 - m. Record of arrests or convictions;
 - n. Medical history;
 - o. For the birth mother, history of prenatal care, gestational substance or drug abuse, pregnancy, and delivery;
 - p. Immediate family relationships; and
 - q. Significant family events.
 2. An explanation of the birth parent's decision to place the child for adoption, the factors which influenced that decision, and a record of any counseling the birth parent has received concerning the decision.
 3. A record of the birth parent's contact with the child.
 4. A statement of the birth parent's feelings about future contact with the child.
 5. A list of the birth parent's preferences regarding an adoptive home for the child.
 6. Medical history on the birth parent's own parents, siblings, grandparents, aunts, uncles, and 1st cousins.
 7. Information on the child being surrendered for adoption, as appropriate to the age of the child:
 - a. Developmental history,
 - b. Medical history,
 - c. Psychosocial background,
 - d. Educational history, and
 - e. Membership in or affiliation with any Native American tribe.
 8. A listing of the birth parent's insurance policies, including any insurance that may be available to cover the medical expenses of the birth mother or adoptive child; the listing shall specify the name of the insured, the insurance policy number, and the effective dates of coverage.
- B.** The adoption entity shall document all statements and information in a permanent record.

Historical Note

Adopted effective January 18, 1978 (Supp. 78-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6611. Pre-consent Conferences with Birth Parents

- A.** The adoption entity shall have a pre-consent conference with each birth parent from whom a consent to adoption is required under A.R.S. § 8-106, to explain the following information:
1. The legal and practical consequences of executing a consent, including:
 - a. Applicable ICWA provisions; and
 - b. The fact that the consent, and all other affidavits executed in connection with an adoption, are executed under penalty of perjury;
 2. The irrevocability of a consent;
 3. The legal prohibition against paying the birth parent to execute a consent;
 4. The fact that the birth parent has no obligation to sign the consent; and
 5. The provisions of A.R.S. § 8-106(F) regarding an affidavit of potential fathers and A.R.S. § 8-548.07 regarding reimbursement to AHCCCSA.
- B.** The Pre-consent conference shall occur:
1. No earlier than 12 hours after the birth of a child if the conference was not held before the birth, as provided in subsection (B)(2);
 2. No earlier than 60 days before the anticipated due date, if the conference is held before the child's birth;
 3. At least 24 hours before presenting a birth parent with the consent form for signature; and
 4. At a time which takes into account the known medical and emotional condition of the birth parents.
- C.** The person conducting the pre-consent conference shall provide the birth parent with a sample consent form and shall convey the information described in subsection (A) in a language and form that the birth parent can understand.
- D.** The person conducting the pre-consent conference shall document that the information was given and understood and shall obtain the birth parent's signature on the documentation. If the conference is telephonic as prescribed in subsection (E), the person may obtain the signature later through the mail. If the conference is not held, the person shall document the reasons, as prescribed in subsection (E).
- E.** The pre-consent conference may be telephonic and is not required if the birth parent cannot be located or refuses to participate in the conference; however, the entity shall document the reason why the conference did not occur.
- F.** If required to obtain a consent from a birth father under A.R.S. § 8-106, the adoption entity shall, prior to obtaining the birth father's signature, advise the birth father of the matters listed in subsection (A), in a form and language the birth father can understand. The advice may be included on the consent form.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).
Amended by final rulemaking at 5 A.A.R. 1006, effective March 18, 1999 (Supp. 99-1).

R6-5-6612. Consent to Adopt; Unknown Birth Parent

- A.** A person who obtains a birth parent's signature on a consent shall not do so until the person determines:
1. That the requirements of R6-5-6611 have been met;
 2. That the birth parent is not acting under duress;
 3. That the birth parent is physically and mentally capable of exercising informed consent; and
 4. That the birth parent has revealed all information known about the identity and location of the other birth parent.

- B. No one shall advise a birth parent to falsely state that he or she does not know the identity or location of the other birth parent.
- C. When a birth parent professes not to know the identity or location of the other birth parent, the person taking the consent shall explain the risks and consequences of this response, including the following:
 1. Potential invalidation of the adoption;
 2. Potential detriment to the child's social and physical well-being, due to lack of information concerning the unidentified birth parent's social and medical history; and
 3. Potential penalties for perjury.
- D. The adoption entity shall document all action taken in compliance with this Section.
- E. When a birth parent knows, but refuses to disclose, the identity or location of the other birth parent, the adoption entity shall advise the birth parent as provided in subsection (C) and shall also explain that the court may refuse to finalize the adoption.
- F. The adoption entity shall give the birth parent a copy of the consent and retain a copy in the permanent adoption file.
- G. The adoption entity shall request a search of the confidential register of information which the Arizona Department of Health Services maintains pursuant to A.R.S. § 8-106.01 if:
 1. A birth father's identity is unknown or undisclosed, and
 2. The adoption entity believes that a search of the register may prevent disruption of a placement or an adoption.
- D. In an agency placement adoption, an adoption entity shall place an adoptable child in the adoptive setting which best meets the child's needs. In determining who can best meet the needs, the adoption entity shall consider all relevant factors, including, without limitation:
 1. The wishes of the child's birth parent;
 2. Family relationships between the child and the adoptive family members;
 3. The racial, cultural, and ethnic background of the child and the family members;
 4. The family's ability to financially provide for the child and to meet the child's emotional, physical, mental, and social needs;
 5. The placement of the child's siblings;
 6. The availability of relatives, the adoptable child's former foster parents, or other significant persons to provide support to the adoptive family and child; and
 7. All information in the case files of the child and the adoptive family.
- E. The adoption entity shall document the placement decision.
 1. For adoptions conducted pursuant to the ICPC, the documentation shall comply with the requirements of the ICPC regarding documentation of suitability, as prescribed in A.R.S. § 8-548.
 2. For all other adoptions, the documentation shall include the following:
 - a. The adoptive child's critical needs and characteristics that weighed most heavily in the placement determination,
 - b. The names and general family characteristics of those adoptive parents who most closely matched the child's needs and who were most seriously considered for placement, and
 - c. The reasons why the particular adoptive parent chosen for placement best matched the child's needs and characteristics.
- F. For adoptions not covered by the ICPC, the adoption entity may document the placement decision in a file or placement log that is separate from clients' case files.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6613. Adoptable Child: Assessment and Service Plan

- A. Prior to selecting an adoptive placement for an adoptable child, the adoption entity shall:
 1. Assess the child's medical, psychological, social, and developmental needs and shall design an adoptive family profile consistent with the child's needs and best interests;
 2. Design a written plan of developmentally appropriate preplacement and post-placement services necessary to facilitate the child's adjustment to placement;
 3. Assess whether the child is a potential candidate for an adoption subsidy.
- B. The plan shall, at a minimum, include:
 1. Placing the child on the Registry if there is no adoptive family readily available to adopt the child;
 2. Giving the child a developmentally appropriate explanation of the adoption process.
- C. The adoption entity shall provide the child with services in accordance with the child's plan.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6614. Placement Determination

- A. An adoption entity shall have and follow a written policy for making placement recommendations and decisions in both direct placement and agency placement adoptions.
- B. Except as otherwise provided in subsection (C), in an agency placement adoption, the placement decision shall be made by a team which shall, at a minimum, include:
 1. The case manager or person who assessed the adoptable child, and
 2. The case manager or person who is knowledgeable about the potential adoptive families for the adoptable child.
- C. In international adoptions, where the case worker who assessed the child is out of the country and unavailable, the agency shall include the person who is most familiar with the adoptable child's needs.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6615. Provision of Information on Placed Child

After selecting an adoptive placement for a child, and before placing the child with the chosen adoptive parent, the adoption entity shall provide the adoptive parent with all nonidentifying information available on the child, including, without limitation, the following:

1. All records concerning the child's medical, social, legal, family, and educational background;
2. All records concerning the birth parents' medical, social, legal, family, and educational background;
3. The medical and social background on the child's other immediate family members, including siblings and birth grandparents;
4. The child's plan of adoption services, as described in R6-5-6613; and
5. Advice on adoption subsidy that may be available for the child.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6616. Transportation

An adoption entity which transports adoptive children shall:

1. Ensure that any such entity or person who transports an adoptive child is informed of the child's medical needs

and is capable of meeting any medical needs that are reasonably likely to arise during transport;

2. Not leave an adoptive child unattended during transportation unless the adoption entity has determined, and documented in the child's record, that the child is physically and emotionally capable of traveling alone;
3. Require all persons who provide transport to carry personal identification and a written statement from the agency describing the person's authority and responsibilities while performing transport duties;
4. Require proof of identification from any person accepting temporary or permanent responsibility for an adoptive child during the course of placement; and
5. Document all transportation plans and actual transportation events in the child's record.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6617. Placement Investigation and Report

- A. When an adoption entity performs a placement investigation as required by A.R.S. § 8-105(F) and (I), the investigation shall include:
 1. At least 1 visit with the family after the child is in the home; the visit shall include at least 1 conference alone with the placed child, if developmentally appropriate;
 2. Any other investigative efforts necessary to make a report on the matters listed in A.R.S. § 8-105(F).
- B. Upon completion of the placement investigation, the adoption entity shall prepare a placement report in compliance with A.R.S. § 8-105(F) and (I).
- C. In determining whether to recommend approval of the placement, the adoption entity shall consider all factors bearing on the suitability of the adoptive placement, including the factors listed in R6-5-6614(C).
- D. The adoption entity shall document all action taken to conduct the placement investigation.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6618. Placement Services

- A. An adoption entity shall make counseling services available to the adoptive family as the entity deems reasonable and necessary to facilitate the child's acceptance into the family and to preserve stability. The adoption entity may make such services available by advising the adoptive family that such services may be beneficial and referring the adoptive family to community resources and providers.
- B. The adoption entity shall make information on adoption related educational and supportive resources available to adoptive families.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6619. Post-placement Supervision: Non-foster Parent Placements

- A. When a child is placed for adoption with a person who is not the child's foster parent, a case manager from the adoption entity shall visit the home within 30 calendar days of the date of adoptive placement to:
 1. Ensure that the adoptive parent received all available nonidentifying information on the child;
 2. Address any questions or concerns the adoptive parent or child may have about the adoption process or placement;
 3. Ensure that the family has addressed the educational needs of a school-age child; and

4. Ensure that an adoptive parent who works has made appropriate child care arrangements.

- B. Following the initial placement visit described in subsection (A), a case manager from the adoption entity shall:
 1. Visit the adoptive family at least once every 3 months until the adoption is finalized except, when the adoptive child is a child with special needs, the visits shall occur at least once a month. During the 1st 6 months following the initial placement visit, at least alternating visits shall occur at the adoptive family's home;
 2. Interview all members of the adoptive family's household during the placement supervision period; and
 3. Discuss the following issues with the adoptive parent if appropriate in light of the child's age and development:
 - a. How the presence of the child has changed familial relationships;
 - b. How the child and the extended family view each other;
 - c. The role each family member has assumed regarding child care and discipline;
 - d. How the parent is coping with the needs and demands of the placed child;
 - e. How the child challenges or tests the placement and how the family reacts to these episodes, including any feelings of insecurity about the propriety of the family members' response;
 - f. How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and
 - g. How the child has adjusted to the school environment; and
 4. If developmentally appropriate, privately interview the child about the child's feelings about the adoption and the matters listed in subsection (B)(3), at each supervisory visit.
- C. The case manager shall document all contacts and communications made pursuant to this Section.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

Amended by final rulemaking at 5 A.A.R. 1006, effective March 18, 1999 (Supp. 99-1)

R6-5-6620. Post-placement Supervision: Foster Parent Placements

- A. When a foster parent plans to adopt a foster child who is age 5 or older, a case worker from the adoption entity shall privately interview the child and all members of the adoptive family household who are age 5 or older about their feelings towards the adoption, before the adoption consent is signed.
- B. When a child is placed for adoption with a person who has been a foster parent to the child, a case manager from the adoption entity shall conduct home visits at least every 2 months from the time legal consent for adoption has been signed until the finalization of adoption. If the adoptive child is a child with special needs, the case manager shall visit at least once a month.
- C. During such visits, the case manager shall:
 1. If developmentally appropriate, privately interview the child to discuss the child's feelings about the adoption; and
 2. Interview all members of the adoptive family household, including children, if developmentally appropriate, to discuss, at a minimum, the matters listed in R6-5-6619(B)(3).
- D. The case manager shall document all contacts and communications made pursuant to this Section.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6621. Protracted Placements

If an adoption is not finalized within 2 years from the date of consent, and the child is still placed in the adoptive home, the agency handling the adoption shall provide the Department with written documentation explaining the reason why the adoption has not been finalized, no later than 30 calendar days after the 2-year period has ended.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6622. Finalizing the Placement

An adoption entity shall cooperate with the adoptive parent and the attorney, if any, retained by the adoptive parent, to finalize the adoption.

1. The entity shall provide all information and documents needed to finalize the adoption and shall file a final written report to the court at least 14 calendar days before the final adoption hearing, or at such other time as the Court may require. The report shall include the information listed in this subsection, unless the entity has already provided this information in an earlier report, and the information has not changed since the earlier report.
 - a. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;
 - b. The name, age, and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parent;
 - c. The entity or other source from which the adoptive parent received the child to be adopted;
 - d. The circumstances surrounding the surrender of the child to the entity;
 - e. The results of the entity's evaluation of the child and of the adoptive parent, including a description of the care the child is receiving and the adjustment of the child and parent, and a summary statement of the entity's recommendation to the court regarding finalization;
 - f. A full description of any property belonging to the child to be adopted;
 - g. An itemized statement of all fees and costs the adoptive parent paid in connection with the adoption, as prescribed in R6-5-6503.
2. If developmentally appropriate, the entity shall solicit and consider the child's wishes concerning adoption.
3. The entity shall notify AHCCCSA of any potential 3rd party payors, as prescribed in A.R.S. § 36-2903.01(T), if the entity has not already done so.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6623. Placement Disruption

- A. When a placement fails, the adoption entity shall provide services, including counseling to the family and child, to help them cope with the loss and separation.
- B. An adoption entity shall have and follow written procedures for an adoptive placement disruption. The procedures shall include:
 1. Provision of counselling services to the adoptive family and child as needed; and
 2. Provision for placement of the child in another adoptive home or other developmentally appropriate living arrangement.

- C. The agency shall document the reasons for the disruption and shall take such information into account when making future placements for the adoptive parent and the child.

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

R6-5-6624. Confidentiality

Any person who participates in an adoption or provides adoption services shall abide by the confidentiality requirements prescribed in A.R.S. §§ 8-120, 8-121, and 36-2903.01(S).

Historical Note

Adopted effective January 2, 1996 (Supp. 96-1).

ARTICLE 67. ADOPTION SUBSIDY**R6-5-6701. Objective**

Adoption subsidy is a program which provides monetary assistance and special services for children who otherwise may not be adopted, making it possible to secure permanent legal homes with qualified adoptive parent applicants who meet adoption agency standards with one exception: that being the financial ability to support the child(ren).

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6702. Authority

The adoption subsidy program is authorized under A.R.S. Title 8, Chapter 1, Article 2, Sections 8-141 through 8-145.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3).

R6-5-6703. Description of services

Depending on the needs of the child, the subsidy may be for special services and/or money payments and for a limited period or until the child is 18 years of age, or for any combination thereof.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3).

R6-5-6704. Definitions

- A. "Adoption subsidy". Providing monetary assistance and/or special services to secure permanent legal homes for children who otherwise may not be adopted.
- B. "Adoptive parents". Any adult or adults who are residents of Arizona, whether married, unmarried or legally separated, who qualify to adopt children or have adopted children.
- C. "Adoptive parents of another state". Any adult or adults who are residents of a state other than Arizona who qualify to adopt children, or have adopted children, according to the laws of that state.
- D. "Child". *Any person under the age of 18 years who is legally free for adoption, who has either become emotionally attached to the prospective adoptive parents while in their care as a foster child or who otherwise may not be adopted because of any of the following special circumstances:*
 1. *Physical or mental disability.*
 2. *Emotional disturbance.*
 3. *High risk of physical or mental disease.*
 4. *Age.*
 5. *Sibling relationship.*
 6. *Racial or ethnic factors.*
 7. *Any combination of circumstances described by paragraph (1) through (6). (A.R.S. § 8-141).*
- E. "Foster parents". Any adult or adults maintaining a foster home.
- F. "Money payments". Monthly subsistence payments for the child.

- G.** "Special services subsidy". Payment to adoptive parents or to the provider of services for expenses incurred in the provision of medical/dental, psychiatric/psychological, special education/day treatment and other services to meet the pre-existing or otherwise indicated health related needs or risks of the child.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6705. Policy

- A.** Foster parents interested in adopting a child in their home or any other persons interested in adopting a child who is in custody of the Department or a licensed child-placing agency in Arizona, may apply to the Department of Economic Security to have the child certified for adoption subsidy.
- B.** A child who is in the custody of the Department or a licensed child-placing agency in Arizona when eligibility for subsidy is certified shall remain eligible and may receive subsidy, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal order of adoption or thereafter.
- C.** All persons approved for the program as adoptive parents must meet adoption agency standards, with one exception; that being the financial ability to support the child.
- D.** The child for whom subsidy is to be considered must be:
1. In the custody of the Department and a ward of the court or in the custody of a licensed child-placing agency in Arizona.
 2. Legally free for adoption.
- E.** An adoption subsidy agreement must be signed prior to entry the order of adoption.
- F.** An adoption subsidy may:
1. Commence at any time after subsidy is approved and the child has been placed for adoption.
 2. Vary with the needs due to the special circumstance of the adopted child and with the availability of other resources.
 3. Continue as long as the needs of the child exist and the child is a legal dependent of the adoptive parents, but not beyond 18 years of age.
 4. Be for special services only.
 5. Be for money payments only.
 6. Be for special services and money payments.
 7. Not exceed money payments allowable for foster family care.
 8. Include, in the case of a special service, the reasonable fee for the service rendered.
- G.** All direct benefits available to the child shall be subtracted from the subsidy. Such benefits include, but are not limited to the following: Social Security, A.S.I., Veterans Administration, Tribal and Insurance Benefits.
- H.** There shall be an annual review by the Department of all continuing subsidies to ascertain the need for continuing or adjusting the subsidy.
- I.** The adoption subsidy will be suspended if the child is placed in the care, custody, and control of an agency or individual other than the adoptive parents or custody, and control of an agency or individual other than the adoptive parents or if the child's needs no longer exist. In the event the child is placed in foster care the subsidy shall be suspended for that period of time when the child is out of the home. The subsidy may be resumed upon the child's return to the home if the need still exists.

- J.** In the event the adoptive parents move out of state, the subsidy shall be continued so long as the child's need is confirmed and documented in the child's record.

- K.** All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the state laws and/or regulations of the Department of Economic Security.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6706. Types of subsidy

- A.** Money payments
1. Amount and method of payment.
 - a. Money payments shall not exceed the current rate for foster family care and shall be automatically adjusted whenever foster family care rates are changed.
 - b. The subsidy shall be paid on a monthly basis and be issued to the adoptive parents.
 2. Duration
 - a. Time limited subsidy: Payments for a specified period of time.
 - b. Long term subsidy: Payments for an unspecified period of time which may extend until the child reaches the age of 18.
 - c. Delayed subsidy: Entering into an agreement on anticipated future needs for money payments.
- B.** Special services subsidy
1. Children to be considered for special services subsidy shall include:
 - a. Children with a known, pre-existing condition which will require treatment or surgery after adoptive placement and/or after the legal order of adoption.
 - b. Children who, because of their genetic background, medical or social history, face a recognized high risk that a related physical or mental condition may later develop.
 2. Services covered include, but are not limited to:
 - a. Treatment of medical, dental and emotional conditions.
 - b. Other health related services such as physical therapy, rehabilitation training, speech and hearing therapy, and purchase or rental of wheelchairs, braces, crutches, prostheses, glasses and hearing aids.
 3. Limitation
 - a. Evaluation must be made on the adoptive parents' medical and hospital insurance and of other public and voluntary community services (such as Crippled Children's Services) to determine whether treatment and related costs can be covered by one or more of the existing health programs. Available resources must be utilized. Verification must be recorded in the case record. If these resources fully cover the child's special needs, subsidy may still be approved to guarantee continued services to the child should the availability of insurance or other resources fail in the future.
 - b. The subsidy shall not include provision for payment of routine medical care or health problems that occur subsequent to the final order of adoption.
 - c. Evaluation must be made of Public School District Special Education Programs to determine whether they can meet the child's educational needs. In cases where the School District certifies that no appropriate program is provided but cannot pay any or all of

the cost of Special Education in a non-public school program, the Department may supplement or pay full tuition. The non-public school must be certified by the Arizona State Department of Public Education for such Special Education. Before this payment may be approved, all authorized methods for payment by the Public School and the Department of Education must be exhausted. Verified information must be documented in the Case Record.

4. Amount and method of payment
 - a. The amount of the subsidy for health related services shall be limited to a usual, customary and reasonable fee for the service rendered.
 - b. The amount of subsidy for day treatment or special education shall be no more than the total monthly tuition less any amount which can be paid by the school and any amount which may be paid through voucher by the State Department of Education.
 - c. The subsidy payments will be made directly to the adoptive parents, who will then pay the provider. Exception: In the event of high cost health related services, such as hospitalization and surgery, if the adoptive parents prefer not to handle these large sums of money, payment may be made directly to the provider.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6707. Certification of the child for adoption subsidy

- A. The child with special needs shall be evaluated by qualified specialists as to the medical/dental, psychiatric/psychological, developmental/educational, and other health related services needed. This shall be done prior to selection of an adoptive family.
- B. The child who has become emotionally attached to his foster parents shall:
 1. Be currently in a foster home which meets the standards for certification for adoption; except for the financial ability to support the child; and,
 2. Have a psychiatric or psychological evaluation which indicates the child has established such significant emotional ties with the foster parents as to be unable to readily accept another family; or,
 3. Have established such a meaningful relationship with the foster parents that the most appropriate plan is adoption by the foster parents, as determined by the Social Services Worker and Social Services Supervisor.
- C. The child with special needs due to age; sibling relationship; and/or racial or ethnic factors may also be certified for adoption subsidy when such factors impede the child's adoptive placement.
- D. The Social Services Worker responsible for case planning for the child shall, after obtaining comprehensive evaluation of the child's needs, complete the required forms to request Department certification of the child as appropriate for adoption subsidy.
- E. Reasons for which the child is certified may change at anytime after subsidy is approved and the child has been placed for adoption, but prior to entry of the order of adoption.
- F. The Department will approve or deny each request for certification.
- G. Approval of the child for subsidy may be completed before the child is placed in an adoptive home.
- H. The adoptive family must apply and be approved before payment may be made on behalf of the child.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6708. Adoptive parents application for subsidy

- A. The adoptive parents shall be court certified or approved as an adoptive home.
- B. It shall be determined that appropriate resources for placement of the child have been considered and carefully evaluated, and that the adoptive family wishing to apply shall be considered the most appropriate placement for the specific child(ren).
- C. The adoptive parents shall submit a written application on forms provided by the Department.
- D. The Department must make a decision to approve or deny the application within 30 days after the application is received.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Amended effective June 19, 1979 (Supp. 79-3).

R6-5-6709. Department responsibility

- A. The Department shall:
 1. Advise adoptive parents that adoption subsidy is available for children meeting the following special circumstances:
 - a. Physical or mental disability
 - b. Emotional disturbance
 - c. High risk of physical or mental disease
 - d. Age
 - e. Sibling relationship
 - f. Racial or ethnic factors
 - g. Any combination of circumstances described by subparagraphs (a) through (f).
 2. Advise adoptive parents regarding subsidy prior to pre-placement visit between child and potential adoptive parents.
 3. After the placement of a certified child in the adoptive home, evaluate the adoptive family's medical and hospital insurance and address the limitations of the agreement.
 4. Approve and sign the Agreement between the Department of Economic Security and adoptive parents regarding Subsidy Payments.
- B. Shall accept application to have child certified for adoption subsidy:
 1. Determine child's eligibility for subsidy.
 2. Approve or disapprove the application submitted by the adoptive parents regarding Subsidy Payments.
- C. If the child is determined eligible, the Application will be approved and the adoptive parents shall be asked to sign the Agreement.
- D. If the application for a subsidy is disapproved, the Department shall send a decision letter within ten days of making the decision stating the reason(s) for disapproval and the fact the applicant has a right to appeal.
- E. Subsidy payments may begin when the certified child is placed for adoption and the subsidy is approved.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6709 repealed, former Section R6-5-6710 renumbered and amended as Section R6-5-6709 effective June 19, 1979 (Supp. 79-3).

R6-5-6710. Revisions

If at any time the circumstances of the child or the family change materially, the original agreement shall be reviewed at that time and may be modified at the request of the family or the Department.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6710 renumbered and amended as Section R6-5-6709, former Section R6-5-6711 renumbered and amended as Section R6-5-6710 effective June 19, 1979 (Supp. 79-3).

R6-5-6711. Case management

- A. The case shall remain open as long as the child continues to be approved for subsidy. The functions and responsibilities of the Department will be limited to documenting need and making subsidy payments.
- B. Confidentiality. The files and regulations of the Department regarding the disclosure and use of confidential information concerning the client, as set forth in A.C.R.R. Title 6, Chapter 5, Article 23, "Safeguarding for Records and Information" shall apply to all services provided under this Article.
- C. Appeals. The rules and regulations of the Department set forth in A.C.R.R. Title 6, Chapter 5, Article 25, "Complaints and Appeals" shall apply to all services provided under this Article.
- D. Civil rights. The rules and regulations of the Department set forth in A.C.R.R. Title 6, Chapter 5, Article 26, "Civil Rights" shall apply to all services provided under this Article.
- E. Closing the service. The service will be closed when the child is no longer approved for subsidy.

Historical Note

Adopted effective May 17, 1976 (Supp. 76-3). Former Section R6-5-6711 renumbered and amended as Section R6-5-6710, former Section R6-5-6713 renumbered and amended as Section R6-5-6711 effective June 19, 1979 (Supp. 79-3).

R6-5-6712. Repealed**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Repealed effective June 19, 1979 (Supp. 79-3).

R6-5-6713. Renumbered**Historical Note**

Adopted effective May 17, 1976 (Supp. 76-3). Renumbered and amended as Section R6-5-6711 effective June 19, 1979 (Supp. 79-3).

ARTICLE 68. REPEALED**R6-5-6801. Repealed****Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6802. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6803. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6804. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-6-6805. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6806. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6807. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

R6-5-6808. Repealed**Historical Note**

Adopted effective May 26, 1977 (Supp. 77-3). Repealed effective June 5, 1997 (Supp. 97-2).

ARTICLE 69. CHILD PLACING AGENCY LICENSING STANDARDS**R6-5-6901. Objectives**

The objective of this Article is to establish licensing and operating standards to promote quality services for children and unmarried mothers whose needs are not adequately met in their family homes.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6902. Authority

A.R.S. §§ 8-501 through 8-520 and 46-134.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6903. Definitions

- A. "Adult". Any person 18 years of age or older.
- B. "Authorized representative". A designated employee of the Department.
- C. "Casework supervisor". A person who holds a Bachelor's degree from a university or college and has at least three years of casework experience in a certified or licensed family/child welfare agency.
- D. "Caseworker". A person who holds a Bachelor's degree from a university or college and who has training and/or experience in the field of behavioral science.
- E. "Child". Any person under 18 years of age.
- F. "Child placing agency". A child welfare agency which is authorized in its license to place children.
- G. "Department". The Arizona State Department of Economic Security.
- H. "Division". The Arizona State Department of Economic Security.
- I. "Executive Director". The person responsible for overall administration of the child placing agency; also referred to as Administrator, or Director.
- J. "Foster care". A social service which, for a planned period, provides substitute care for a child when its own family cannot care for it for a temporary or extended period of time. Foster care may be in a private family home or a group home.
- K. "Foster child". A child placed in a foster home or child welfare agency.
- L. "Foster home". A home maintained by an individual or individuals having the care or control of children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals (A.R.S. § 8-501(4)).

- M. "License". The legal authorization to operate a child placing agency issued by the Arizona Department of Economic Security.
 - N. "Licensed medical practitioner". Any physician or surgeon licensed under the laws of this State to practice medicine pursuant to Title 32, Chapter 13 and 17 (A.R.S. § 36-501(4)).
 - O. "Licensing". Includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
 - P. "Parent or parents". The natural or adoptive parent or parents of the child.
 - Q. "Provisional license". A temporary license to operate a Child Placing Agency, issued by the Arizona Department of Economic Security for a period not to exceed six months; a provisional license is issued to an agency that is temporarily unable to conform to all licensing standards and where the deficiencies are minor, correctable and not potentially injurious to the safety or welfare of a child and the agency agrees to correct the deficiency or deficiencies, and where there is a demonstrated need for the services. A provisional license is not renewable.
 - R. "Receiving foster home". A licensed foster home suitable for immediate placement of children when taken into custody or pending medical examination and court disposition which is designated as a receiving foster home and it is licensed.
 - S. "Regular foster home". A licensed foster home suitable for placement of not more than five minor children.
 - T. "Regular license". A license to operate a Child Placing Agency, issued by the Arizona Department of Economic Security; a regular license which may be issued following a provisional license is valid for one year from the date of issuance and must be renewed annually.
 - U. "Social worker". A person who holds a Master of Social Work degree from an accredited school of social work.
 - V. "Special foster home". A licensed foster home capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or have been adjudicated a delinquent (A.R.S. § 8-501(10)).
- 1. Communication from community leaders in the field of child welfare indicating a need for the services proposed by the applicant or
 - 2. Recent research data establishing a need for the services being proposed by the applicant.
- E. Licensing study
 - 1. A study will be made as required by A.R.S. § 8-505(C) by an authorized representative of the Department to evaluate the potential and actual ability of the Child Placing Agency to provide services to children according to the Standards prescribed in this Article.
 - 2. To obtain this information, the authorized representative of the Department must make at least one visit to evaluate the agency setting and interview the Director and staff.
 - 3. In addition, the authorized representative of the Department shall review documentary evidence provided by the Executive Director of the Child Placing Agency regarding agency operation and services to be provided.
 - F. Provisional license
 - 1. A provisional license shall be issued to any Child Placing Agency that is temporarily unable to conform to all licensing standards, and where the deficiencies are minor, correctable and not potentially injurious to the safety or welfare of the children served, and where the agency agrees to correct the deficiencies, and where there is a demonstrated need for the services.
 - 2. A provisional license is valid for up to six months and may not be renewed.
 - 3. Prior to the expiration of the provisional license, a review of Standards will be conducted by the Department to determine eligibility for regular licensing. The Child Placing Agency must meet all licensing standards for the issuance of a regular license.
 - G. Regular license
 - 1. The license is valid for one year from the date of issuance and must be renewed annually.
 - 2. Each license shall state in general terms the kind of child welfare services the licensee is authorized to undertake; and the number of children that can be received or placed and supervised in foster homes, their ages and sex, and the geographical area the agency is equipped to serve (A.R.S. § 8-505(D)).
 - H. Supervision by the Department. The Department shall provide training, consultation and technical assistance to Child Placing Agencies.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6904. Licensing requirements

- A. Consultation. Individuals, association, institutions or corporations considering the establishment of a Child Placing Agency shall consult the Social Services Bureau of the department about such plans:
 - 1. Before a specific program is developed;
 - 2. Before filing a petition for corporation; and
 - 3. Before an application is filed.
- B. Application. Individuals, associations, institutions or corporations shall make written application to the Department for a Child Placing Agency license.
- C. Fingerprints
 - 1. All members of the Child Placing Agency staff having contact with the foster children must be fingerprinted, and the fingerprints submitted to the Department for a criminal records check.
 - 2. A license for a Child Placing Agency will not be issued, or will be revoked, if any staff member, having contact with foster children has ever been convicted of a sex offense, has been involved in child abuse, child neglect, selling narcotics, or contributing to the delinquency of a minor, or has a substantial criminal record.
- D. Demonstration of need for services in the community. Evidence of need shall consist of:

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6905. Denial, suspension or revocation of a license

- A. The Department shall deny, suspend or revoke any license when:
 - 1. The Child Placing Agency is not in compliance with the licensing standards of the Department, Arizona state or federal statutes, city or county ordinances or codes; or
 - 2. The care and/or services needed by children are not provided.
- B. A license that has been suspended can be reinstated by the correction of the deficiency.
- C. When a license is revoked, it is necessary to correct the deficiency and make a new application.
- D. When an initial application, or an application for a renewal of a license is denied, or a license is revoked or suspended, a written notification of the action shall be forwarded by certified mail to the applicant or licensee.

1. The written notice shall state the reasons for the denial, revocation or suspension with references to applicable statutes, regulations and standards.
2. The Department shall notify the Child Placing Agency of the right to request a hearing within 20 days after receipt of the written notice.
3. The hearing shall be held within ten days of the request, and at that time the applicant or holder shall have the right to present testimony and confront witnesses.
4. When a hearing is requested, the denial, suspension or revocation of the license shall not become final until after the hearing decision is published.
5. The fair hearing process shall be in accordance with A.C.R.R. Title 6, Chapter 5, Article 24.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6906. License renewal requirements

- A. Every regular license shall expire one year from the date of issuance and may be renewed annually upon application of the Child Placing Agency.
 1. License renewal is not automatic.
 2. License renewal requires:
 - a. A consultation;
 - b. An application;
 - c. A written description of services provided; and
 - d. Licensing study (see R6-5-6904(E)).
 3. For license renewal, each Child Placing Agency must meet all standards for licensing as specified in this Article.
- B. An application for the renewal for a Child Placing Agency shall be made in the same manner as the original application. A licensee shall reapply when:
 1. The present license will expire within 30 days to 60 days; or
 2. There is a plan to move within 30 days from the address on the current license; or
 3. There is substantial material change in the program and/or purpose of the Child Placing Agency.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6907. Standards for licensing and operating a Child Placing Agency

- A. Requirements for the staff of a Child Placing Agency
 1. Executive Director. The Agency Board shall select an Executive Director.
 - a. If the Executive Director is not directly involved in supervising child placing activities, the Director shall at least have a Bachelor's degree in a field related to social work such as administration, psychology, education or other allied profession, as well as demonstrated satisfactory experience in the area of service provided by the agency.
 - b. If the Executive Director directly supervises child placing activities, he shall have a Master's degree in Social Work or at least a Bachelor's degree and a minimum of three years of experience in child welfare services in a certified or licensed family or child welfare agency.
 2. Casework supervisor. The casework supervisor shall possess above average ability in casework practice and have knowledge of and skills applicable to casework supervision. The supervisor shall have a Bachelor's degree and at least three years of casework experience in a licensed family or child welfare agency.

3. Social worker. A person shall have a Master of Social Work degree from an accredited school of social work.
4. Caseworker. A caseworker shall have a Bachelor's degree from a university or college and have training and/or experience in the field of behavioral science.
5. Office staff. The agency shall have sufficient clerical services to keep correspondence, records, bookkeeping, and files current and in good order.

6. Consultants

- a. The agency shall have a consulting Licensed Medical Practitioner who makes recommendations as to the medical aspects of the agency program, coordinates medical care for selected children, and advises staff regarding the health problems of specific children.
- b. Psychiatric, psychological and legal consultation and/or services shall be available to the agency.

B. Requirements for the organization of a Child Placing Agency

1. Type of organization. A Child Placing Agency shall be maintained by the state, or a political subdivision thereof, a person, firm, corporation, association, or organization.
2. Incorporation
 - a. Incorporated Child Placing Agencies shall provide the Department with a copy of the Articles of Incorporation and Bylaws and the Certificate of Incorporation issued by the Arizona Corporation Commission.
 - b. The purpose for which the agency is incorporated shall be stated in its Articles of Incorporation and the agency shall not enter any other fields of service than those provided in its Articles of Incorporation.
3. Board of Directors
 - a. All Child Placing agencies shall have a Board of Directors. The Department shall be provided a current list of all Board members, their address and office held.
 - b. Persons employed by or who receive compensation from a group care agency (see Title 6, Chapter 5, Article 74) may not be Board members of a Child Placing Agency due to a possible conflict of interest.
 - c. The Board of Directors shall:
 - i. Assume responsibility, jointly with the Executive Director, for formulating the plans and policies of the Child Placing Agency.
 - ii. Keep sufficiently informed through Board meetings and through the reports of its Executive Director and committees to ensure that the agency fulfills all of its functions in the best interest of the children.
 - iii. Meet at least quarterly. Its executive committee shall meet as needed.
 - iv. Keep minutes of each meeting which shall be made a permanent part of the records of the Child Placing Agency.
 - v. Refrain from direct administration or operation of the Child Placing Agency, either through individual members or committees, except in emergencies.
 - vi. Select and employ an Executive Director to whom the responsibility for administration of the agency shall be delegated and, when necessary, terminate such employment.
 - vii. Require and approve the Child Placing Agency's annual program and financial reports.
 - d. The Board of Directors should be composed of adult residents who have a genuine interest in child wel-

- fare, concern for social conditions in the community, and reflect equitably the ethnic and economic standing of the population served. The Board members should have sufficient time to discharge their obligations and have a variety of interests, talents and points of view so that no single group or profession will have a controlling voice.
- e. The names, addresses and offices held of all members of the Board of Directors shall be currently filed with the Department. All changes in composition of the Board of Directors or Officers of the Child Placing Agency must be reported to the Department in writing within 30 days of a change.
 - f. Provision should be made for replacement of members who become inactive for six months. Terms for Board members shall be overlapping and election of one-third of the Board membership annually is recommended to insure continuity of policy, as well as the introduction of new and changing points of view. Administrators and staff of the Child Placing Agencies shall not be members of the Board of Directors. Agencies which do not have overlapping terms or which currently have administrators or staff members on their Board of Directors will have one year from the date of issuance of these standards to bring their Board of Directors into compliance.
4. Financing
 - a. Requirement for sufficient funding. The agency must furnish evidence that it has sufficient funds to pay all start-up and operating costs through the year of operation for which a license may be issued.
 - b. Budget and financial records
 - i. Child Placing Agency shall operate on a budget which has been approved by its governing board before the beginning of the fiscal year.
 - ii. A Child Placing Agency must maintain financial records of all receipts, disbursements, assets, and liabilities for at least three years. These records should be available for inspection by the Department upon request.
 - c. Solicitation of funds from the public. Each Child Placing Agency shall comply with all local and state laws relating to the solicitation of funds.
 5. Operations manual. Each agency shall compile an operations manual. It shall be available to all agency staff members, and all staff members shall be familiar with the contents. It shall contain:
 - a. The overall philosophy, which guides the agency's services.
 - b. A statement of the primary purpose, services, and goals of the agency.
 - c. A chart of organizational structure.
 - d. The agency's intake policies and procedures.
 - e. The manual of the agency's governing board.
 - f. The operational procedures, which guide the delivery of the agency's services.
 - g. Copies of the agency's forms.
 6. Records and reports
 - a. Files. Case records and financial records shall be kept in a locked, fire-resistant file. Access to records shall be limited to the staff who have need for the data, and to authorized representatives of the Department.
 - b. Case records
 - i. The agency shall maintain up-to-date, confidential and well-organized case records. Each child's record should indicate, from the point of admission to discharge, the service plan and the progress of the child.
 - ii. Records shall include the current information needed to provide services, make service plans, and evaluate each child.
 - iii. The case record should be divided into sections for easy reference, with the material filed under the following headings, as appropriate:
 - (1) Intake -- intake study, including referral material from other agencies, court, or referral sources;
 - (2) Legal -- specific verified information relative to the status of the child's legal guardianship and custody. Statements, agreements, and consents signed by parent(s) or guardian(s) pertaining to the child's placement, financial responsibility, and other data required for protection of the child;
 - (3) Medical -- medical history, including immunizations, physical defects, significant developmental history, illnesses, and hospital care and/or operations. Medical releases and/or authorizations for treatment or medical care, including the names of medical personnel involved. Records of all prescription medications consumed;
 - (4) Dental -- date of examinations, etc.;
 - (5) Psychological -- reports of psychological and/or psychiatric evaluations and examinations;
 - (6) Progress -- periodic (not less than every three months) evaluation of the child's progress, adjustment, development and future plans and goals.
 - (7) School -- school records indicating attendance and scholastic achievement;
 - (8) Correspondence -- letters received or sent concerning the child;
 - (9) Each record shall have a face sheet listing the following information which shall be kept up-to-date:
 - (a) Full name of child, including aliases;
 - (b) Date and place of birth (verified);
 - (c) Sex;
 - (d) Religion and race;
 - (e) Names, addresses of parents and siblings;
 - (f) Names, addresses and relationships of other responsible persons;
 - (g) Date referred to the agency;
 - (h) Date service was terminated;
 - (i) Other pertinent identifying information.
 - c. Reports
 - i. Each agency shall maintain and report accurate statistics on children receiving services, and staff employed, on forms provided for that purpose by the Department. These reports shall include:
 - (1) Form FC-005, "Foster Child Placement, Replacement and Discharge Central Registry Form", which must be submitted within five working days of the date action is taken.

- (2) Form LC-008, "Child Welfare Agency Employee Central Registry", which must be submitted within five days of employment or discharge.
 - ii. The Child Placing Agency shall report to the Department any planned change of address, change in program, or other change which significantly affects the services provided. The Department shall be notified 30 days prior to any planned changes.
 - C. Requirements for the personnel of a Child Placing Agency
 - 1. Personnel practices. An agency shall employ an individual only after careful evaluation of the applicant which will include references as to character, skills, knowledge, and experience.
 - 2. Personnel policies. The agency shall maintain a manual of all personnel policies and procedures including job descriptions and all personnel forms. The written statement of personnel policies outlining personnel practices as they affect both employer and employee should include:
 - a. The conditions of employment and the conditions under which employment may be terminated.
 - b. Salary scales.
 - c. Provision for sick leave, time off, and paid vacation.
 - d. Information regarding employment benefits, such as retirement and insurance plans.
 - e. Provision for periodic assessment of work performance.
 - f. Provision for staff development through in-service training.
 - 3. Personnel records
 - a. A personnel record shall be maintained for each employee. This shall include identifying and qualifying information; such as, references, previous work history and education, date of employment and evaluation.
 - b. When employees resign, retire, or are discharged, the date and reason for termination shall be recorded.
 - D. Placement services
 - 1. Foster care
 - a. Types of homes
 - i. Boarding Home. A Boarding Home provides temporary or permanent care and compensation to the foster parents for room and board. These Boarding Homes may be either Regular or Special Foster Homes.
 - ii. Free home. A free home provides temporary or permanent care without compensation other than special needs.
 - iii. Work and Wage Home
 - (1) Work and Wage Homes are those in which the child's duties within the home constitute reimbursement for room and board and for which the child may be paid an additional wage. These homes shall be used only as a resource for mature and well adjusted children from 16 to 18 years with good work skills. The Child Placing Agency shall prepare a written statement to be signed by the agency, foster parents and child which will clearly define:
 - (a) The amount of work required; and
 - (b) The remuneration the child is to receive and by whom; and
 - (c) The work schedule which shall permit the child time for school attendance, study, recreation, and other normal activities for a child in this age group.
 - (2) The Department shall not place adjudicated dependent children in Work and Wage Homes.
 - b. Foster care placement procedures
 - i. The agency shall follow the preplacement procedures set forth in A.R.S. § 8-511.
 - ii. Following the preplacement procedures outlined in A.R.S. § 8-511, if it is determined that the child should be placed in foster care, the agency shall provide appropriate counseling services to the child and his parents to prepare them for the placement.
 - (1) If the family does not explain the reason for placement and prepare the child for this experience, the representative of the Child Placing Agency should do so.
 - (2) The representative of the Child Placing Agency should explain the foster home program to the parents.
 - iii. When a child is placed in foster care, the Child Placing Agency shall comply with the requirements and procedures set forth in A.R.S. § 8-514(B) and (C).
 - 2. Adoption. If authorized in its license to place children for adoption, the agency shall comply with all laws (including but not limited to A.R.S. Title 8, Chapter 1, Article 1) regarding the investigation of potential adoptive parent and the adoption of children. The agency shall comply with the requirements of the following rules of the Department:
 - a. Title 6, Chapter 5, Article 65, Adoption Placement;
 - b. Title 6, Chapter 5, Article 66, Adoption Study;
 - c. Title 6, Chapter 5, Article 67, Adoption Subsidy; and
 - d. Title 6, Chapter 6, Article 68, Relinquishment and Severance Services.
 - 3. Parents
 - a. When there are social and/or emotional problems regarding the pregnancy, social services shall be given in accordance with the needs of mother during pregnancy and to help her with plans for her rehabilitation after delivery.
 - b. Unless inappropriate, the father shall be involved in planning for the mother and child.
 - c. Services to unmarried parents may also include establishing paternity and shall include making suitable plans for the child.
- E. Supervision
 - 1. The licensed Child Placing Agency shall supervise:
 - a. All children placed by the agency in foster homes; and
 - b. All foster homes where children are placed by the agency.
 - 2. The licensed Child Placing Agency's representative shall:
 - a. Visit Receiving Foster Homes at least once per month;
 - b. Visit Regular and Special Foster Homes at least once every three months; and
 - c. Prepare written reports of the visits.
 - 3. A Child Placing Agency may allow a child to participate in activities and functions generally accepted as usual or

normal for his/her age group. Permission for a child to participate in activities shall be given in accordance with A.R.S. § 8-513.

4. Following the initial placement, the child placed in a setting other than that of his parent's home shall have medical examinations at periodic intervals, and not less than once every year.

F. Foster home studies

1. The study. Child Placing Agencies that wish to submit foster homes for licensing shall conduct an investigation of the foster home, meeting the standards established by the Department in Title 6, Chapter 5, Article 58, Family Foster Home Licensing Standards.
2. Fingerprints. Foster parent applicants and members of the household, 18 years of age or older, must be fingerprinted, and the fingerprints submitted to the Department for a criminal records check.
3. Demonstration of health
 - a. The potential foster care application, prior to licensing, shall furnish a report of a physical examination, done within the last six months, demonstrating that the person has good health and is free from any communicable disease.
 - b. Prior to licensing, children of the foster care applicant shall have current immunizations as prescribed by the Arizona Department of Health Services.
4. Sanitation inspection. The Child Placing Agency shall request the local or state health department to conduct a sanitation inspection of the prospective foster home prior to licensing.
5. Licensing. If the foster home meets all requirements set by the Department, the Child Placing Agency shall submit an application stating the foster home's qualifications to the Department. The Child Placing Agency may also recommend the types of licensing and certification to be granted to the foster home. The Department shall review the foster home study, and issue a license for the foster home if all licensing standards have been met.
6. License renewal. Foster home license renewal is required annually by the Department.
7. Homes exempt from licensing by the Department. When a child is placed in a home by a means other than by a court order, and when the home receives no compensation from the state or any political subdivision of the state, licensing by the Department is not required.

G. Requirements of physical plant and equipment

1. Offices
 - a. There should be sufficient office space for interviewing children and families and for supervisory conferences.
 - b. The Child Placing Agency shall comply with any building, health, fire or other codes in effect in the jurisdiction where it is located.
2. Fire protection. All Child Placing Agencies shall have a written fire evacuation plan posted and should conduct fire drills at least every six months.
3. Telephone. There shall be telephone service in the Child Placing Agency.
4. Vehicle(s). The vehicle(s) for transporting children shall be in a safe operating condition and all drivers shall have a current driver's license. Persons who frequently transport children as a part of their employment shall have a chauffeur's license.
5. Insurance

- a. The Child Placing Agency shall provide for insurance coverage for adequate protection against accidents.
- b. Insurance coverage must include liability insurance to cover acts of children or staff, and protection against damages to, or loss of, buildings and other valuable properties.
- c. There shall be liability insurance on all vehicles transporting children.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6908. Confidentiality

The rules and regulations of the Department for securing and using confidential information concerning the client shall be followed. Refer to Title 6, Chapter 5, Article 23, "Safeguarding of Records and Information".

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6909. Civil rights

The rules of the Department regarding civil rights shall be followed. Refer to Title 6, Chapter 5, Article 26, Civil Rights.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

R6-5-6910. Fair Labor Standards Act

The hiring and compensation policies of the Child Placing Agency shall comply with the Fair Labor Standards Act.

Historical Note

Adopted effective August 31, 1978 (Supp. 78-4).

ARTICLE 70. ADOPTION AGENCY LICENSING

R6-5-7001. Definitions

The definitions in R6-5-6501 apply in this Article.

Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7002. Who Shall Be Licensed

- A.** Only the following persons may perform the adoption services listed in subsection (B):
 1. A person licensed as an agency;
 2. An employee of or an independent contractor for an agency;
 3. A person acting under the direct supervision and control of an adoption agency; or
 4. A person or entity holding a statutory exemption from licensing pursuant to A.R.S. § 8-131, when such person is acting in the capacity described in such statutes.
- B.** Only persons listed in subsection (A) may perform the following adoption services:
 1. Recruiting a birth parent to place a child through a particular agency;
 2. Taking a birth parent's relinquishment and consent to adoption;

3. Taking physical custody of a child for placement into an adoptive home;
 4. Placing a child in an adoptive home;
 5. Monitoring, supervising, or finalizing an adoptive placement; and
 6. Providing networking or matching services for a birth parent, an adoptive parent or an adoptive child.
- C. Notwithstanding subsections (A) and (B), attorneys licensed to practice law in the state of Arizona may participate in direct placement adoptions to the extent allowed by A.R.S. Title 8, Chapter 1, Article 1.

Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 8S-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7003. Licensing: Initial Application; Fee

- A. To apply for an adoption agency license, a person shall:
1. File a completed license application form with the Department; the form shall contain the information listed in subsection (B);
 2. Submit the supporting documentation listed in subsection (C);
 3. Pay a non-refundable, initial application fee of \$400; and
 4. Obtain and provide to the Department evidence that all agency employees or personnel having direct contact with children have been fingerprinted.
- B. The application form shall contain the following information:
1. Agency name, address, and telephone number;
 2. Address of all agency offices;
 3. A written description of:
 - a. All adoption services the applicant intends to provide,
 - b. The fee the applicant will charge for each service,
 - c. The cost to the applicant of providing each service,
 - d. The time in the adoption process when the applicant will require clients to pay the fee described in subsection (B)(3)(b),
 - e. The anticipated number of clients the applicant will serve, and
 - f. The methods the applicant will use to recruit birth parents and prospective adoptive parents; and
 4. A written explanation of how the applicant will provide adoption services, including:
 - a. Number and description of staff who will provide the service, and
 - b. Staff training requirements.
- C. The applicant shall submit the following supporting documentation:
1. A current financial statement;
 2. Applicable business organization documents, including:
 - a. Articles of incorporation,
 - b. By-laws,
 - c. Partnership agreement,
 - d. Annual reports for the preceding 3 years, and
 - e. Financial audits for the preceding 2 years;
 3. Copies of all documents, forms, and notices which the applicant will use with or provide to clients, including:

- a. Agency application for services,
 - b. Adoptive parent certification application,
 - c. Fee policy and schedule as prescribed by R-5-7031(B),
 - d. Sample birth parent relinquishment and consent form,
 - e. Informational or advertising brochures,
 - f. Sample fee agreement,
 - g. Sample birth parent agreement letter,
 - h. Intake form,
 - i. Sample case file,
 - j. Court report format, and
 - k. Statistical report;
4. Copies of the applicant's internal policies and operations manual;
 5. A written plan showing how the applicant will pay start-up costs and its costs of operation during the 1st year; and
 6. A list of the members of the agency's governing body required by R6-5-7011, including name, address, position in the agency, and term of membership.
- D. An agency which does not have or maintain all or part of the supporting documentation listed in subsection (C) shall so indicate in a written statement filed with the application.

Historical Note

Adopted as an emergency effective January 21, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 8S-6). Emergency renewed and amended effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7004. Licensing: Out-of-state Agencies

- A. An out-of-state agency that wishes to become licensed in Arizona as an adoption agency shall comply with all requirements of R6-5-7003.
- B. In addition to the documentation required by R6-5-7003, the out-of-state agency applicant shall file the following documents with the Department:
1. A copy of each license or authorization to perform adoption services the applicant holds in states other than Arizona or in a foreign country;
 2. A consent allowing any out-of-state or foreign licensing authority to release information on the applicant to the Department; and
 3. A written description of any license suspension or revocation proceedings pending or filed, or brought against:
 - a. The applicant;
 - b. The applicant's owner, if the applicant is acting as an individual or a sole proprietor;
 - c. The partners of the applicant, if the applicant is a partnership; and
 - d. The directors, officers, and shareholders holding more than a 10% ownership interest in the applicant if the applicant is a corporation.

Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 8S-6). Emergency renewed and amended effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pur-

suant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7005. Department Procedures for Processing License Applications

- A. In this Section, a complete application package means:
 1. For an initial license, the items listed in R6-5-7003; and
 2. For a renewal license, the items listed in R6-5-7008.
- B. Within 14 days of receiving an initial or renewal license application package, the Department shall notify the applicant that the package is either complete or incomplete, as required by A.R.S. § 41-1074(A). If the package is incomplete, the notice shall specify what information is missing, as required by A.R.S. § 41-1074(B).
- C. An applicant with an incomplete package shall supply the missing information within 60 days from the date of the notice. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to become licensed shall reapply.
- D. Upon receipt of all missing information within 60 days, as specified in subsection (B), the Department shall notify the applicant that the application package is complete.
- E. The Department shall not process an application for licensing, as described in R6-5-7006(A), until the applicant has fully complied with the requirements of R6-5-7003 or R6-5-7008, as applicable.
- F. The Department shall issue a licensing decision no later than 90 days after receipt of a completed application package. The date of receipt is the postmark date of the notice advising the applicant that the package is complete.
- G. For the purpose of A.R.S. § 41-1073, the Department establishes the following licensing time-frames for both initial and renewal licenses:
 1. Administrative completeness review time-frame: 15 days;
 2. Substantive review time-frame: 90 days; and
 3. Overall time-frame: 105 days.

Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended by final rulemaking at 5 A.A.R. 1006, effective March 18, 1999 (Supp. 99-1).

R6-5-7006. License: Issuance; Denial

- A. Prior to issuing a license to an applicant, the Department shall:
 1. Review the application package;
 2. Inspect the applicant's place of business, books of record, books of accounting, and system for client files;
 3. Interview the applicant's staff, as necessary to familiarize the Department representative with the applicant's operations; and
 4. As to out-of-state agency applicants, verify that the applicant is licensed out-of-state and investigate any complaints asserted against the applicant in other states.
- B. Prior to issuing a license, the Department may submit the applicant's written fiscal plan for audit verification.

- C. The Department may issue a license to an applicant who:
 1. Has complied with all application and inspection requirements; and
 2. Demonstrates that it:
 - a. Has sufficient capital to pay all start-up costs; and
 - b. Has sufficient capital, personnel, expertise, facilities, and equipment to provide the services it plans to offer;
 - c. Does not intend to charge unreasonable fees; and
 - d. Complies with the requirements of this Article and Article 66.
- D. The Department may deny a license to:
 1. An applicant which had a license revoked by another state or foreign country,
 2. An applicant which employs personnel whose fingerprint background check shows that the employee has been convicted of or is awaiting trial on an offense listed in A.R.S. § 46-141,
 3. An applicant which does not comply with 1 or more of the standards listed in subsection (C),
 4. An applicant which has intentionally or recklessly jeopardized the well-being of a client,
 5. An applicant which has a history or pattern of violations of applicable adoption statutes or rules, or
 6. An applicant which violates the ICPC or ICWA during a licensing year.
- E. When the Department denies a license, the Department shall send the applicant written notice explaining the reason for denial and the applicant's right to seek a fair hearing.

Historical Note

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. New Section adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7007. License: Term; Nontransferability

- A. The Department shall issue a license only to the agency for which application is made and for the location shown on the application.
- B. A license expires 1 year from the date of issuance.
- C. A license shall not be transferred or assigned and shall expire upon a change in agency ownership.
- D. For the purpose of this Section, a change in ownership shall include the following events:
 1. Sale or transfer of the agency,
 2. Bulk sale or transfer of the agency's assets or liabilities,
 3. Placement of the agency in the control of a court appointed receiver or trustee,
 4. Bankruptcy of the agency,
 5. Change in the composition of the partners or joint venturers of an agency organized as a partnership,
 6. Sale or transfer of a controlling interest in the stock of a corporate agency, or
 7. Loss of an agency's nonprofit status.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987

(Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7008. Application for License Renewal; Fee

- A. No earlier than 90 and no later than 45 days prior to the expiration date of a license, an agency may apply to the Department for license renewal.
- B. The renewal application shall be on a Department form containing the information listed in R6-5-7003(B), except that the agency shall obtain additional fingerprint clearance on continuing personnel every 3rd year following original clearance.
- C. An agency shall submit copies of the supporting documents listed in R6-5-7003(C) if the agency has changed, amended, or updated such documents since the agency last renewed its license.
- D. With a renewal application, the agency shall also submit a renewal fee of \$225 and the following documentation:
 - 1. A current financial statement;
 - 2. A copy of the agency's current budget required by R6-5-7022, and most recent audit report required by R6-5-7023;
 - 3. Copies of any written complaints the agency has received about its performance during the expiring license year; and
 - 4. A written description of any changes in program services or locations, or the population served by the agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7009. Renewal License: Issuance

- A. The Department shall process a renewal application package pursuant to the procedures described in R6-5-7005 and R6-5-7006.
- B. In addition to conducting an investigation as prescribed in R6-5-7006(A) and (B), the Department may:
 - 1. Interview agency clients and references,
 - 2. Observe agency staffings, and
 - 3. Conduct field visits to agency branch offices.
- C. In determining whether to renew a license, the Department may consider the licensee's past history from other licensing periods, and shall consider a repetitive pattern of violations of applicable adoption statutes or rules as evidence that the agency is unable to meet the standards for obtaining a license.
- D. The Department may renew an agency's license when the agency:
 - 1. Demonstrates that it meets the standards described in this Article,
 - 2. Has complied with the requirements of this Article and Article 66 during the expiring period of licensure, and
 - 3. Has corrected any prior circumstances which resulted in non-compliance status.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7010. Amended License

- A. An agency which seeks to change its name, address, or offices, without a change in ownership, shall apply to the Department

for an amended license at least 14 days prior to the effective date of the change.

- B. The application shall be in writing and shall specify the information to be changed.
- C. So long as the change does not cause the agency to fall out of compliance with the standards listed in this Article and Article 66, the Department shall issue an amended license which shall expire at the end of the agency's current licensing year.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Amended and adopted as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7011. Governing Body

- A. The adoption agency shall have a governing body, which shall:
 - 1. Establish the agency's policies and oversee the implementation of those policies;
 - 2. Ensure that the agency has the capital, physical facilities, staff, and equipment to effectively implement the agency's policies and adoption program;
 - 3. Ensure that the agency complies with:
 - a. All legal agreements to which the agency is a party; and
 - b. All relevant federal, state, and local laws;
 - 4. Review and approve the agency's annual budget required by R6-5-7022 and the annual audit required by R6-5-7023; and
 - 5. Notify the Department before making any substantial changes to the adoptions program set out in the agency's operations manual.
- B. The agency shall advise the Department in writing of any changes in composition of the governing body within 30 days of the change.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7012. Agency Administrator

- A. The agency shall have an administrator who is responsible for the agency's business operations.
- B. The Administrator shall have the education and experience described in this subsection.
 - 1. A bachelor's degree from an accredited college or university and 2 years of professional experience in the human services field, 1 year of which shall have been in a supervisory or administrative position; or
 - 2. A master's or doctorate degree from an accredited graduate school in business or public administration or in 1 of the areas of study in the human services field, and 1 year of professional experience in the human services field.
 - 3. Five years of experience as the administrator of an adoption agency may substitute for only the degree that is required in subsections (B)(1) or (B)(2).
- C. The Administrator shall:
 - 1. Oversee development and implementation of the agency's policy and procedures for program and fiscal operations;

2. Ensure that the agency achieves and maintains compliance with the requirements of this Article;
 3. Oversee hiring, evaluation, and discharge of agency personnel in accordance with the agency's established personnel policies and this Article;
 4. Establish and supervise working relationships with other social service agencies within the community.
- D.** An Administrator who directly supervises adoption activities shall also meet the requirements for a social services director prescribed in R6-5-7013.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7013. Social Services Director

- A.** The agency shall have a social services director who is responsible for the agency's casework and family services.
- B.** The social services director shall have the following education and experience:
1. A bachelor's degree in social work or a related human services field from an accredited college or university and 3 years of professional experience in services to children and families, 2 years of which shall be in adoption services; or
 2. A master's degree in social work or a related human services field from an accredited college or university and a minimum of 2 years of professional experience in services to children and families.
- C.** The social services director shall, either personally or through a designee:
1. Supervise, manage, train, and evaluate all social work staff members and consultants;
 2. Approve decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in a child's legal status; and
 3. Implement the agency's adoption program and services.
- D.** If the social services director delegates responsibility as prescribed in subsection (C), the social services director shall personally supervise the designee and shall oversee the performance of the duties described in subsection (C).
- E.** If the social services director performs the duties of an administrator, the director shall also meet the requirements for an administrator prescribed in R6-5-7012.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7014. Social Workers

- A.** The agency shall have social workers sufficient to meet the ratio requirements prescribed in R6-5-7020.
- B.** A social worker shall have the following qualifications:
1. A bachelor's degree in social work or a related human services field from an accredited college or university and 2 years of professional experience in a human services field; or
 2. A master's degree in social work or in a related human services field from an accredited college or university.

- C.** A social worker shall:

1. Maintain up-to-date case records on cases assigned to the worker;
2. Prepare certification and placement reports and home studies for adoptive applicants and parents, and such other reports as the court may require;
3. Provide preplacement, placement, post-placement, or post-adoption services to clients.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7015. Agency Employees: Hiring; References; Fingerprinting

- A.** An agency shall obtain an application for employment or a resume from each employee. The application or resume shall contain, at a minimum, the following information on the applicant:
1. Name and current address and telephone number;
 2. Educational history;
 3. Degrees or certifications held;
 4. Work history for 5 years prior to the date of the application, and the reasons for leaving each prior job;
 5. A summary of all prior experience the applicant has had in the area for which the applicant is seeking employment;
 6. A minimum of 3 professional references;
 7. A minimum of 3 personal references; and
 8. A list of any criminal convictions, excluding minor traffic violations.
- B.** An agency shall not hire an applicant for employment until:
1. The agency has personally contacted at least 2 of the applicant's professional references and 1 of the applicant's personal references;
 2. The agency has verified that the applicant has the skills and training necessary to perform the task for which the agency is hiring the applicant; and
 3. The applicant has submitted to a fingerprint and criminal records check as required by A.R.S. § 46-141.
- C.** The agency shall not knowingly hire or retain any staff member who is awaiting trial on, or has been charged with, been convicted of, pled guilty to, or entered into a plea agreement regarding an offense listed in A.R.S. § 46-141.
- D.** The agency shall have written job descriptions for all employee and volunteer positions in the agency. The job descriptions shall include the essential functions of the job and any minimum qualifications or training required for the position.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7016. Agency Volunteers; Interns

An agency which uses volunteers or student interns shall follow the requirements of this Section.

1. An appropriate employee shall directly supervise each volunteer or intern. As used in this subsection, the term "appropriate" shall mean agency personnel with skills

and training to guide the volunteer or intern in the performance of the designated tasks.

2. The agency shall subject each volunteer or intern who renders direct services to clients, to the same fingerprinting and reference checks the agency performs on agency employees.
3. For each volunteer or intern, the agency shall maintain a record of fingerprint clearance, reference check information, and any training provided. The agency shall retain the record for 3 years following the volunteer or intern's termination with the agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7017. Personnel Records

- A. The agency shall maintain a personnel file for each agency employee. The file shall contain:
 1. The employee's resume or written application for employment;
 2. Documentation of the reference checks required by R6-5-7015(B);
 3. Evidence of fingerprint and criminal records clearance;
 4. A record of the expiration date and number of the employee's driver's or chauffeur's license, if the employee transports clients;
 5. Copies of the employee's professional credentials or certifications, if relevant to the employee's job functions;
 6. Documentation of initial and ongoing training the employee has received;
 7. Periodic job performance evaluations; and
 8. Dates of employment and separation, and reasons for separation.
- B. The agency shall maintain employee personnel records for at least 3 years following the employee's separation from the agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7018. Training Requirements

- A. An agency shall provide initial and ongoing training for professional employees.
 1. Initial training shall include orientation to the agency and any of the agency's policies and procedures that are relevant to the employee's job.
 2. Ongoing training shall include a minimum of 14 hours of annual training in the following, or related, subject areas:
 - a. Adoption statutes and rules,
 - b. Agency policies and procedures,
 - c. Confidentiality, and
 - d. The specific subject matter of employee's job.
- B. The agency shall document all training in the employee's personnel file.
- C. As used in this Section, "professional employee" shall mean any person who renders services directly to clients.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7019. Contracted Services

- A. When an agency provides adoption services through persons who are not agency employees, volunteers, or interns, the agency shall retain only external professionals or consultants who are certified, licensed, or otherwise meet the qualifications described in Articles 66 and 70, to provide such services.
- B. The agency shall not require clients to use medical, legal, psychological, psychiatric, or other professionals or consultants used or recommended by the agency. The agency may use consultants or persons selected by the agency's client, so long as the consultant designated by the client has the education, experience, or certification required to render the service.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7020. Staffing Ratios

- A. An agency shall have sufficient staff to satisfy:
 1. All statutory requirements for provision of adoption services;
 2. All applicable requirements of this Article and Article 66; and
 3. All requirements included in the agency's own operating and procedural manuals, policies, or guidance documents.
- B. To determine sufficiency under subsection (A), the Department shall consider:
 1. Complaints made against the agency;
 2. The complexity of the individual needs of the clients served by the agency;
 3. The professional training and experience of the agency's staff;
 4. The specific functions assigned to individual agency staff;
 5. The geographic area served by the agency and any travel time required for agency staff;
 6. The respective amounts of time staff devote to various functions and responsibilities, including provision of services, court appearances, case documentation, professional training and development, and administrative tasks; and
 7. Other similar factors bearing on caseload distribution.
- C. Notwithstanding any other provision of this Article, a case manager whose caseload is predominantly a caseload of children with special needs shall not have a caseload in excess of 20 children.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7021. Operations Manual

- A. An agency shall have a written operations manual which shall include:
1. A statement of the agency's purpose, philosophy, and program;
 2. A list of any eligibility requirements for clients;
 3. A description of services provided to clients and the name of any person or entity providing the service, if different from the agency and its employees;
 4. An organizational chart explaining the agency's lines of authority;
 5. Intake policies and procedures;
 6. The operational procedures the agency follows for delivery of services;
 7. Confidentiality policies and procedures;
 8. Staff training policy;
 9. Policy for use of volunteers;
 10. Policy on student and intern placement;
 11. Policy and procedures to be followed in the event of adoptive placement disruption; and
 12. Policy for recruitment and selection of adoptive families.
- B. The agency shall make the operations manual available to all agency personnel and shall insure that personnel are familiar with and trained in those policies and procedures relevant to their job functions.
- C. The agency shall make the operations manual available for review by clients, upon request.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7022. Agency Operations Budget; Financial Records

- A. Before the start of the agency's fiscal year, the Governing Body shall adopt a budget which shall reflect sufficient funds to pay the costs of the agency's program and shall be based on the audit report prepared in compliance with R6-5-7023.
- B. The agency shall operate within the budget adopted by the Governing Body.
- C. The agency shall maintain financial records of receipts, disbursements, assets, and liabilities. The agency shall maintain its financial records in accordance with generally accepted accounting principles; the records shall accurately reflect the agency's financial position.
- D. The agency shall maintain records showing the following information:
1. Each adoptive parent's original contract date with the agency,
 2. Fees that each adoptive parent has paid to the agency and the date of such payments, and
 3. Fees that the agency has charged to the adoptive parent.
- E. The agency shall make all records described in this Section available for inspection by the Department at periodic inspections, or at other reasonable times upon Department request.
- F. The agency shall retain financial records for 5 years, except for records involved in an audit, which records the agency shall retain for 5 years following completion of the audit.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.F.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987

(Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7023. Annual Financial Audit

- A. An agency shall obtain an annual, fiscal year-end, financial audit by an independent certified public accountant. The accountant shall conduct the audit in accordance with generally accepted auditing standards.
- B. The agency shall obtain from the auditor a written audit report which shall include the following financial information:
1. Income statement,
 2. Balance sheet,
 3. Statement of cash flows,
 4. Statement of monies or other benefits the agency has paid or transferred to other business entities or individuals affiliated with the agency, and
 5. A record of any financial transactions between the agency and any other agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.P-S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7024. Insurance Coverage

An agency shall provide evidence that it maintains a blanket liability insurance policy for protection against financial loss, accidents, errors, and omissions in the minimum amount of \$100,000 per person; \$300,000 per accident.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7025. Protecting Confidentiality of Adoption Records

The agency shall have and follow a written policy for the maintenance and security of adoption records. The policy shall be consistent with A.R.S. §§ 8-120, 8-121, and 36-2903.01(S) and shall specify:

1. The personnel responsible for supervision and maintenance of records,
2. The persons who shall and may have access to the records,
3. The procedures for release of records.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.P-S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7026. Recordkeeping Requirements: Adoptive Children

The agency shall maintain a case record for each adoptive child. Except as otherwise provided in A.R.S. § 8-129(A), the record shall be divided into 2 sections as follows:

1. Non-identifying information as required by A.R.S. § 8-129; and
2. Identifying information which shall include:
 - a. Tapes, videos, or photos of the adoptive child or birth parent;

- b. Legal documents and reports required for adoption;
- c. Social, physical, mental, and educational history of the child's birth family;
- d. Social, physical, mental, and educational history of the adoptive child; and
- e. A summary of all action taken to prepare the child for placement in the adoptive home.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7027. Recordkeeping Requirements: Adoptive Parents

The agency shall maintain a case record for each adoptive parent. If the adoptive parent is a member of the same family as another adoptive parent, the agency can maintain 1 file for the adoptive family. The file shall include:

- 1. Documentation showing that the adoptive parent received the orientation described in R6-5-6603,
- 2. The adoptive parent's application for certification,
- 3. The parent's certification report and any recertification reports,
- 4. A copy or description of the nonidentifying information the agency has provided to the adoptive parent pursuant to A.R.S. § 8-129(A), and
- 5. A summary of the adoptive placement decision and the preplacement and post-placement contacts with the family and the adoptive child.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Amended and adopted as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7028. Reporting Requirements: Abuse; Unauthorized Practice; Changes; Registry Information

- A. During the period of time that an agency is providing services to an adoptive child or family, the agency shall:
 - 1. Immediately report any suspected or alleged incident of maltreatment of an adoptive child to Child Protective Services; and
 - 2. Immediately notify a Department licensing representative if an adoptive child dies or suffers a serious illness, bodily injury, or psychiatric episode.
- B. An agency shall notify the Department orally of any of the following changes or events within 24 hours after the agency learns of their occurrence and shall submit written notification to the Department within 5 working days:
 - 1. Permanent or temporary closure of the agency or any part thereof;
 - 2. A criminal conviction or plea agreement involving any agency staff member, excluding minor traffic violations;
 - 3. Filing of a lawsuit against the agency;
 - 4. Filing of a lawsuit against agency personnel when the lawsuit relates to or is likely to adversely affect the provision of adoption services;
 - 5. Damage to agency facilities which substantially disrupts the program or the agency's accessibility to clients; and
 - 6. Knowledge of any child placement which the agency reasonably believes is not permitted by law.

- C. The agency shall notify the Department in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:
 - 1. Any plans to reorganize the adoption program that would involve changes in target population, geographic area, services, or eligibility, and the reasons for the changes;
 - 2. Any change in the identity of the agency administrator or social director; or
 - 3. Any change in ownership as described in R6-5-7007(D).
- D. When there is a change in the adoptive circumstances of a child or family listed on the Registry, the agency shall notify the Department of the change within 5 work days of receipt of information about the changed circumstances. For the purpose of this subsection, a change in adoptive circumstances shall include the following events:
 - 1. Placement of a child,
 - 2. Loss or renewal of certification, and
 - 3. Disruption or failure of a placement.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7029. Birth Parent: Service Agreement; Prohibitions

- A. Before providing services to a birth parent, an agency shall enter into a signed written agreement with the birth parent. The agreement shall:
 - 1. Describe all services the agency will provide to the birth parent;
 - 2. Explain, with an itemized statement of costs, any expense which the agency will require the birth parent to reimburse to the agency, and the circumstances giving rise to reimbursement;
 - 3. Contain an itemized statement describing the nature, purpose, and amount of any payments the birth parent will receive from the adoptive parent; if the actual amount is not known, the agency shall describe how the amount will be calculated; and
 - 4. Contain an itemized statement of all consideration the birth parent will receive in connection with the birth or adoption of a child, if not already described pursuant to subsection (A)(3).
- B. Before or at the time of entering into a birth parent agreement with a birth mother, the adoption entity shall advise the birth mother of her obligations under A.R.S. § 8-106(F).
- C. Before providing services to a birth parent, the adoption agency shall advise the birth parent of the Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in R6-5-7034.

Historical Note

Adopted as an emergency effective October 17, 1996, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7030. Adoption Fees; Reasonableness

- A. An agency shall not charge clients more than a reasonable fee for services.
- B. An agency shall establish, maintain, and follow a written policy on the fees it charges clients for adoption services. The fee

policy shall include all of the agency's practices and procedures regarding fees, including the following:

1. A schedule of fees the agency charges for each specific service the agency offers, and the time in the adoption process when the client is required to pay the fee, broken down, at a minimum, as follows:
 - a. Preregistration and registration fees,
 - b. Application and orientation fees,
 - c. Certification application fee,
 - d. Certification investigation,
 - e. Certification report,
 - f. Certification renewal fees,
 - g. Placement services,
 - h. Placement investigation and report,
 - i. Foreign adoption services,
 - j. Post-placement services, and
 - k. Fees incurred when a child has special needs;
 2. An explanation of any practice the agency may have for assessing fees based on pooled or averaged costs;
 3. An explanation of the circumstances or conditions which would cause the agency to reduce, waive, suspend, or refund a fee, which circumstances may include:
 - a. Adjustment made for the well-being of an adoptive child, and
 - b. Adjustments made to accommodate an adoptive parent's limited ability to pay;
 4. An explanation of the circumstances which would cause the agency to increase its fees; and
 5. The procedures the agency follows to collect its fees.
- C.** An agency shall advise prospective and existing clients of its fee policy and shall make a copy of the policy available to clients upon request.
- D.** An agency shall not:
1. Condition a client's eligibility for, or receipt of, adoption services on the client's donation or agreement to donate money, goods, services, or other things of value, other than the regular scheduled adoption fees, to the agency or to an agency affiliate;
 2. Obstruct or withhold finalization of a placement or adoption solely for nonpayment of fees;
 3. Charge a client for any fee which the agency has not listed in the fee schedule, included in its fee policy, and disclosed to the client in the client's fee agreement letter; or
 4. Charge a prospective adoptive parent advance fees contrary to R6-5-6603(C).
- E.** The Department may audit, or designate a certified public accountant to audit, an agency's fee structure.
- F.** The agency shall provide the Department and the agency's current adult clients with a copy of any changes made to the agency's fee policy, no less than 14 days prior to the effective date of the change.
- G.** An agency shall refund to a client any fees the client paid for services the agency failed to perform. Against any such refund, the agency may offset any amount due from the client for services the agency has performed and for which the client agreed to pay but has not paid.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7031. Adoption Fee Agreement

- A.** Before providing services to an adoptive parent, the agency shall enter into a written fee agreement with the adoptive parent. Both the adoptive parent and an authorized representative of the agency shall sign and date the agreement. The agency shall retain the original agreement in the adoptive parent's file and provide a copy to the adoptive parent.
- B.** The fee agreement shall include the following terms:
1. A description of all services the agency will provide to the adoptive parent and the fee for each service; the agreement shall specify how much of the fee is being allocated to cover medical expenses, including the cost of prenatal care and delivery;
 2. A general description of any adoption services the agency is not providing but which are required to finalize the adoption, with an estimate of the costs of such services;
 3. The terms of payment, including payment due dates and amounts;
 4. A statement advising the client of the client's right to receive a copy of the agency's fee policy.
- C.** An agency shall not charge a fee, other than a certification application fee, or enter into an adoption fee agreement until after the potential client has received the orientation described in R6-5-6603.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 96-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7032. AHCCCS Reimbursement; Disclosure of 3rd-party Coverage

- A.** This Section applies to placements made pursuant to the ICPC.
- B.** When an agency has collected fees to cover the medical expenses of a birth mother or an adoptive child whose medical expenses were paid by AHCCCSA, the agency shall reimburse AHCCCSA for the monies AHCCCSA has expended on behalf of the birth mother or child for prenatal care and delivery of the child. The reimbursement amount shall not exceed the amount AHCCCSA has paid for capitation, reinsurance and fee-for-service costs.
- C.** An agency shall determine whether an adoptive parent has insurance that will cover the medical expenses of a birth mother or adoptive child whose medical expenses were paid for by AHCCCSA. If insurance is available, the agency shall provide AHCCCSA with information about the adoptive parent's insurance.
- D.** The Department shall provide AHCCCSA with a copy of the verified accounting form required by A.R.S. § 8-114.01 and A.A.C. R6-5-6503.01.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit

- A.** The Department shall monitor the ongoing operations of each agency.
- B.** Monitoring activities may include the following:

1. At least 1 announced and 1 unannounced on-site inspection of each agency during the licensing year;
 2. Interviews of agency personnel and clients;
 3. A review of the agency's books, records, and sample client files; and
 4. A compliance audit of the agency, as described in subsection (C).
- C.** Upon receipt of a complaint against an agency, or in response to observed deficiencies, the Department may conduct a compliance audit of the agency to assess the agency's compliance with applicable adoption licensing and adoption services statutes and rules.
- D.** An agency shall facilitate the Department's monitoring functions or compliance audit by:
1. Making the agency's books, files, records, manuals, premises, and facilities available to Department staff for inspection;
 2. Allowing Department staff to interview agency personnel and employees; and
 3. Enabling the Department to conduct interviews with agency clients.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7034. Complaints; Investigations

- A.** Any person may register a complaint about an adoption agency with the Department. The Department shall ask persons making oral complaints to put the complaint in writing.
- B.** Upon receipt of a complaint, or in response to deficiencies observed by Department staff, the Department shall investigate the allegations of the complaint.
- C.** The Department's investigation may include:
1. Interviews with the complaining party, agency staff members, and agency clients;
 2. Inspections of agency records, files, or other documents related to the issues raised in the complaint; and
 3. Any other activities necessary to substantiate or refute the allegations.
- D.** Upon completion of its investigation, the Department shall:
1. Find that the complaint is unsubstantiated and close the investigation;
 2. Find that the complaint is substantiated and take appropriate disciplinary action against the agency, as described in this Article; or
 3. Find that the complaint cannot be substantiated or refuted based on the available evidence.
- E.** The Department shall maintain a file on all complaints against an agency and shall make information on substantiated complaints available to the general public, upon request, and to the extent permitted by confidentiality laws.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7035. Noncompliance Status

- A.** The Department shall place an agency in noncompliance status when a Department representative observes or the Department

receives and substantiates a complaint in an area which does not endanger the health, safety, or well-being of a client.

- B.** The Department shall mail the agency written notice of the noncompliance status and the reason for that status and recommendations for changes the agency can make to cure the identified problem.
- C.** No later than 10 working days following the postmark date of the noncompliance notice, the agency shall provide the Department with a written plan showing how the agency will correct the problem which resulted in the noncompliance status, with an estimated time frame in which the agency shall implement the corrective action. The Department may extend the 10-day time-frame when the agency has demonstrated a good faith effort to address and resolve the identified problem.
- D.** Imposition of noncompliance status is not an adverse action and is not appealable.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7036. Suspension

- A.** The Department may suspend an agency's license for violations of the statutes or rules governing adoptions, or for any activity which may threaten the health, safety, or welfare of any agency client, including the following:
1. When the Department receives a CPS report of abuse or neglect alleged to have been committed by agency staff against a child, and the agency fails to take protective measures pending an investigative finding;
 2. Conduct that causes disruption of a placement or adoption;
 3. When an agency permits an employee who has failed to comply with fingerprinting requirements or who has been denied fingerprint clearance to continue providing services to children;
 4. When an agency refuses to cooperate with Department requests for information which the Department requires for determining compliance with the statutes and rules governing provision of adoption services;
 5. When an agency refuses to provide the Department with information the Department has requested during the course of a complaint investigation; or
 6. When an agency fails to correct a problem which resulted in imposition of noncompliance status, within the time provided in the agency's corrective action plan.
- B.** The Department shall mail the agency written notice of the suspension, the reason for the suspension, and an explanation of the agency's right to appeal the suspension.
- C.** Except as otherwise provided in subsection (D), an agency may continue to place adoptable children who become available for placement and to finalize adoptions of placed children and adoptees during a period of suspension; the agency shall not recruit, accept, or register any new birth parents or adoptive parents.
- D.** When the Department finds that the physical or emotional health or safety of a client is in imminent danger, the Department may take immediate action to eliminate the danger. For the purpose of this subsection,
1. A situation involving imminent danger shall be those situations identified in A.R.S. § 8-223(C)(2) which would justify removal of a child;
 2. Immediate action may include:

- a. Removal of children,
 - b. Transfer of clients to another agency, or
 - c. Other protective action designed to eliminate the danger or risk of harm.
- E.** If the agency does not correct the situation which led to suspension of its license, the Department shall initiate license revocation proceedings against the agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7037. Revocation

- A.** The Department may revoke a license for any of the following reasons:
- 1. When the agency violates a statute or rule governing provision of adoption services;
 - 2. When the agency commits any activity which may threaten the health, safety, or welfare of any agency client, including, but not limited to the circumstances justifying license suspension, as prescribed in R6-5-7036;
 - 3. When the agency commits fraud or intentional misrepresentation in obtaining or renewing its license;
 - 4. When the agency commits fraud or intentional misrepresentation in dealing with its clients;
 - 5. When the agency has obtained a birth parent's relinquishment and consent to adoption through duress, coercion, extortion, or intimidation;
 - 6. When the agency knowingly fails to advise an adoptive parent that the adoptive child has been abused while in the agency's care or control; or
 - 7. When the agency violates its agreement with a client for provision of services.
- B.** The Department shall mail the agency written notice of the revocation, the reason for the revocation, and an explanation of the agency's right to appeal the revocation.
- C.** A revocation is effective:
- 1. Twenty-one days after the postmark date of the revocation notice; or
 - 2. In cases where the agency appeals the revocation, when an administrative hearing officer issues a decision affirming the revocation. If an agency further appeals a hearing officer's decision affirming a decision to revoke the agency's license, the revocation is effective until there is a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
- D.** An agency which has had its license revoked shall perform no adoption services after the effective date of the revocation and shall surrender its license to the Department.
- E.** An agency which has had its license revoked shall cooperate with the Department to transfer all its clients to another agency.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.P.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7038. Adverse Action: Procedures

- A.** When the Department takes adverse action against a license applicant or adoption agency, the Department shall give the

affected party written notice of such adverse action by 1st class or registered mail.

- B.** For the purpose of this Section, the following are adverse actions:
- 1. Denial of an initial or renewal license, and
 - 2. Suspension or revocation of a license.
- C.** The adverse action notice shall specify:
- 1. The action taken,
 - 2. All reasons supporting such action, and
 - 3. The procedures by which affected parties may contest the action taken.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

R6-5-7039. Appeals

- A.** An applicant or agency may appeal an adverse action other than imposition of noncompliance status, by filing a written notice of appeal with the Department's Adoptions Licensing Office no later than 20 days from the postmark date of the adverse action notice.
- B.** The notice of appeal shall specify the action being appealed, the reasons for the appeal, and a brief summary of why the Department's action was erroneous, unlawful, or improper.
- C.** The Department shall conduct an appeal from an adverse action as prescribed in 6 A.A.C. 5, Article 75.
- D.** The Department shall conduct an appeal from the decision of a hearing officer as prescribed in A.R.S. §§ 41-1992(D) and 41-1993 and R6-5-7518 through R6-5-7520.

Historical Note

Adopted as an emergency effective October 17, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1). Amended effective June 4, 1998 (Supp. 98-2).

R6-5-7040. International Adoptions

- A.** An agency shall not accept a foreign child for adoptive placement in the United States unless the government of the foreign child's country of origin authorized the placement.
- B.** The agency shall provide the Department with evidence of its authority from or agreements with a foreign country or placing organization. If the evidence of authority is not written in English, the agency shall provide an English language translation of the documentation.
- C.** The agency shall advise the adoptive parents of the need to have the child naturalized in the United States.
- D.** The agency shall provide adoptive parents with information about the child's foreign culture of origin.

Historical Note

Adopted as an emergency effective October 17, 1996, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-5). Emergency expired. Adopted without change as a permanent rule effective January 23, 1987 (Supp. 87-1). Section repealed, new Section adopted effective January 2, 1996 (Supp. 96-1).

ARTICLE 71. REPEALED

R6-5-7101. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-7102. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-7103. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

R6-5-7104. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 85-6). Emergency renewed effective April 1, 1986, pursuant to A.R.S. §§ 41-1003, valid for only 90 days (Supp. 86-2). Emergency expired. Permanent rule adopted effective July 11, 1986 (Supp. 86-4). Repealed effective April 9, 1998 (Supp. 98-2).

ARTICLE 72. REPEALED

Former Article 72 consisting of Sections R6-5-7201 through R6-5-7214 repealed effective July 12, 1984.

ARTICLE 73. REPEALED & RENUMBERED

Editor's Note: Article 73 was repealed except for Sections R6-5-7307 and R6-5-7308 which were both renumbered, effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7301. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7302. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7303. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7304. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7305. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7306. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7307. Renumbered**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Section R6-5-7307 renumbered to R6-5-7470 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7308. Renumbered**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Section R6-5-7308 renumbered to R6-5-7471 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7309. Repealed**Historical Note**

Adopted effective January 21, 1985 (Supp. 85-1). Repealed effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENTS FOR CHILD WELFARE AGENCIES OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS

R6-5-7401. Definitions

In addition to the definitions contained in A.R.S. § 8-501, the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-546(A)(1).
2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to Section 8-223 and which is caused by the acts or omissions of an individual having care, [physical] custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to Section 13-1404, sexual conduct with a minor pursuant to Section 13-1405, sexual assault pursuant to Section 13-1406, molestation of a child pursuant to Sec-

- tion 13-1410, commercial sexual exploitation of a minor pursuant to Section 13-3552, sexual exploitation of a minor pursuant to Section 13-3553, incest pursuant to Section 13-3608 or child prostitution pursuant to Section 13-3212. A.R.S. § 8-546(A)(2).
3. "Accredited" means the approval and recognition of an institution of learning as maintaining those standards requisite for its graduates to gain admission to other institutions of higher learning or to achieve credentials for professional practice. An example of an accrediting body is the North Central Association of Colleges and Universities.
 4. "Administrative completeness review time frame" means the number of days from [the Licensing Authority's] receipt of an application for a license until [the Licensing Authority] determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application. A.R.S. § 41-1072(1).
 5. "Adverse action" means suspension or revocation of a license, denial of a renewal license, or making a material change in licensing status.
 6. "After-care" means services provided to a child after the child is discharged from a licensee's care and may also include services for the child's family.
 7. "Applicant" means a person who submits a written application to the Licensing Authority to become licensed or to renew a license to operate a child welfare agency or a residential group care facility.
 8. "Barracks" means a building that:
 - a. Is designed and constructed or remodeled for the specific purpose of housing large numbers of children of the same gender;
 - b. Has wide, open sleeping areas for children, under 1 roof;
 - c. Is identified and described as a barracks or dormitory in the agency's promotional and organizational materials; and
 - d. Is made known as a barracks or dormitory to placing agencies and persons considering placement of a child.
 9. "Behavior management" means the policies, procedures, and techniques a licensee uses to control conduct as prescribed in R6-5-7456.
 10. "Child placing agency" means a person or entity that is licensed or authorized to receive children for care, maintenance, or placement in a foster home, because:
 - a. The Department has licensed the person or entity as a child welfare agency pursuant to A.R.S. § 8-505; or
 - b. It is an entity with statutory authorization to place children.
 11. "Child welfare agency" or "agency" means:
 - a. Any agency or institution maintained by a person, firm, corporation, association, or organization to receive children for care and maintenance or for 24-hour social, emotional, or educational supervised care or who have been adjudicated as a delinquent or dependent child.
 - b. Any institution that provides care for unmarried mothers and their children.
 - c. Any agency maintained by the state, or a political subdivision thereof, person, firm, corporation, association, or organization to place children or unmarried mothers in a foster home. "Child welfare agency" or "agency" does not include state operated institutions or facilities, detention facilities for children established by law, camps operating less than 12 months per year or boarding schools which board children on a regular school year basis and where the child is off the grounds for at least 60 days or [a] health care institution which is licensed by the department of health services pursuant to Section 36-405. A.R.S. § 8-501(A)(1).
 12. "Corrective action" means a specific course of conduct an agency will follow to remedy violations of the licensing requirements prescribed in this Article, within a specified period of time.
 13. "Corrective action plan" means a written document describing an agency's corrective action, as prescribed in R6-5-7419.
 14. "CPS" means Child Protective Services, a Department program responsible for investigating reports of child maltreatment.
 15. "CPSCR" means the Child Protective Services Central Registry, a computerized database, which CPS maintains according to A.R.S. § 8-546.03.
 16. "De-escalation" means a method of verbal communication or non-verbal signals and actions, or a combination of signals and actions, that interrupt a child's behavior crisis and calm the child.
 17. "Department" or "DES" means the Department of Economic Security.
 18. "Developmentally appropriate" means an action which takes into account:
 - a. A child's age and family background;
 - b. The predictable changes that occur in a child's physical, emotional, social, cultural, and cognitive development; and
 - c. A child's individual pattern and timing of growth, personality, and learning style.
 19. "DHS" means the Department of Health Services.
 20. "Direct care staff" means the facility staff who provide primary personal care, guidance, and supervision to children in care.
 21. "Discharge plan" means:
 - a. A written description of:
 - i. A program of action to prepare a child for release from a facility; and
 - ii. After-care;
 - b. That is developed by a licensee in cooperation with a child's service team.
 22. "Discipline" means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to accepted levels of social behavior.
 23. "Document" means to make and retain a permanent written or electronic record of a fact, event, circumstance, observation, contact, or communication.
 24. "Exploitation" means the act of taking advantage of, or to make use of a child selfishly, unethically, or unjustly, for one's own advantage or profit, in a manner contrary to the best interests of the child, such as having a child panhandle, steal, or perform other illegal activities.
 25. "Facility" or "residential group care facility" means a living environment operated by a child welfare agency,

- where children are in the care of adults unrelated to the children, 24 hours per day.
- a. "Facility" does not include a program licensed as a behavioral health service agency by the Department of Health Services under A.R.S. § 36-405 and 9 A.A.C. 20.
 - b. "Facility" does include an outdoor experience program.
 - c. When used in reference to an outdoor experience program, "facility" means the campsite at which or the mobile equipment in which children are housed.
26. "File" means a place where information is stored through written, electronic, or computerized means.
 27. "Foot candles" means a unit of luminous intensity that can be measured with a light meter.
 28. "Governing body" means an individual or group of individuals responsible for the policies, activities, and operations of a facility, as prescribed in R6-5-7424.
 29. "Individual education plan" or "IEP" means a written document which describes educational goals for a particular child and the services the child needs to attain those goals.
 30. "Institution" as used in A.R.S. § 8-501(A)(1) means an entity meeting 2 or more of the following criteria:
 - a. Solicits charitable contributions;
 - b. Is organized as a profit or non-profit corporation with a board of directors and officers;
 - c. Publishes and distributes information or promotional materials about its program or operations;
 - d. Requires residents to formally apply for residency through use of application forms or other similar paperwork;
 - e. Operates a structured program of care pursuant to written policies, procedures, guidelines, or rules; or
 - f. Advertises itself or holds itself out in the community as an institution that provides care or social services.
 31. "Institution for Unwed Mothers and Children" means a child welfare agency, as described in A.R.S. § 8-501(A)(1)(a)(ii), that is licensed to care for unmarried mothers who are under age 18 at the time of admission to the agency and the children of those mothers.
 32. "License" means a document issued by the Licensing Authority to an individual or non-governmental business, which authorizes the individual or business to operate a child welfare agency in compliance with this Article.
 33. "Licensee" means the person or entity holding a license. When used in reference to a duty, task, or obligation, the term "licensee" includes the staff who work at an agency or facility and who are responsible for doing the acts necessary to fulfill the requirements of this Article.
 34. "Licensed medical practitioner" means a person who holds a current license as a physician, surgeon, nurse practitioner, or physician's assistant pursuant to A.R.S. §§ 32-1401 et seq., Medicine and Surgery; A.R.S. §§ 32-1800 et seq., Osteopathic Physicians and Surgeons; A.R.S. §§ 32-2501 et seq., Physician's Assistant; and A.R.S. §§ 32-1601 et seq., Nursing and A.A.C. R4-19-503, Registered Nurse Practitioner, respectively.
 35. "Licensing Authority" means the Department administrative unit which monitors and makes licensing determinations for agencies and facilities, including issuance, denial, suspension, and revocation of a license or operating certificate, and imposition of corrective action.
 36. "Licensing representative" means a person employed by the Licensing Authority to investigate and monitor applicants and licensees.
 37. "Licensing year" means a 1-year time period that begins on the date an agency obtains its initial license to operate, and ends 1 year later.
 38. "Living unit" means a specific grouping of children who are assigned to and share a distinct and common physical space within a facility.
 39. "Maltreatment" means abuse, neglect, abandonment, or exploitation, of a child.
 40. "Material change in licensing status" means, for the purpose of A.R.S. § 8-506.01,
 - a. Any of the following actions:
 - i. Denial, suspension, or revocation of an operating certificate;
 - ii. At any time following issuance of an initial license, imposition of provisional license status, in lieu of a regular license as prescribed in R6-5-7419; or
 - iii. A change in a term appearing on the face of a license or operating certificate, including: a.) Geographic area served; b.) Age, number, or gender of children served; or c.) Type of services offered;
 - b. But does not include the act of placing an agency on a corrective action plan to bring the agency into compliance with licensing requirements as prescribed in R6-5-7418.
 41. "Mechanical restraint" means:
 - a. An article, device, or garment that:
 - i. Restricts a child's freedom of movement or a portion of a child's body;
 - ii. Cannot be removed by the child; and
 - iii. Is used for the purpose of limiting the child's mobility;
 - b. But does not include an orthopedic, surgical, or medical device which allows a child to heal from a medical condition or to participate in a treatment program.
 42. "Medication" means an agent, such as a drug or remedy, used to prevent or treat disease, illness or injury, including both prescribed and over-the-counter agents.
 43. "Mobile dwelling" means a structure, such as a trailer or recreational vehicle as defined in A.R.S. § 41-2142(30). Mobile dwelling does not mean a mobile, manufactured, prefabricated, or modular home as defined in A.R.S. § 41-2142(14), (24), or (26).
 44. "Neglect" has the same meaning ascribed to it in A.R.S. § 8-546(A)(7).
 45. "Non-ambulatory child" means a child who cannot walk due to a physical disability or impairment, rather than as a result of the child's normal age and developmental level.
 46. "Operating certificate" means a document that the Licensing Authority issues to a particular facility that is run by an agency holding a license, as prescribed in R6-5-7409.
 47. "Outdoor experience program" means a child welfare agency that is located in a cabin or portable structure such as a tent or covered wagon and primarily uses the outdoors to provide recreational and educational experiences in group living, either in a fixed campsite or in a program with an unfixed site, such as a wagon train or wilderness hike.
 48. "*Out-of-home placement*" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to Section 8-223, subsection B, paragraph 3 or subsection C, paragraph 2, volun-

- tary placement pursuant to Section 8-546.05 or placement due to dependency actions. A.R.S. § 8-501(A)(7).
49. "Overall time frame" means the number of days after receipt of an application for a license during which [the licensing authority] determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame. A.R.S. § 41-1072(2).
 50. Paid staff means:
 - a. A licensee's paid employees who work at a facility;
 - b. Any temporary worker or independent contractor the licensee uses as a temporary replacement for an employee who is sick, on leave, or unavailable; and
 - c. Any independent contractor that the licensee retains to provide children in care with direct services at the facility.
 51. "Parent or parents" means the natural or adoptive parents of the child. A.R.S. § 8-501(A)(8).
 52. "Person" means an individual, partnership, joint stock company, business trust, voluntary association, corporation, or other form of business enterprise, including non-profit or governmental organizations.
 53. "Personally identifiable information" means any information which, when considered alone, or in combination with other information, identifies, or permits another person to readily identify the person who is the subject of the information, and includes:
 - a. Name, address, and telephone number;
 - b. Date of birth;
 - c. Photograph;
 - d. Fingerprints;
 - e. Physical description;
 - f. School;
 - g. Place of employment; and
 - h. Unique identifying number, including:
 - i. Social security number;
 - ii. Driver's license number;
 - iii. License number; and
 - iv. Court case number.
 54. "Physical restraint" means the use of bodily force to restrict a child's freedom of movement, but does not include holding a child firmly enough to prevent the child from harming himself or herself, or others, but gently enough so that the child is not harmed by being held.
 55. "Placing agency or person" means the child placing agency, parent, or guardian, having legal custody of a child and who makes the decision to send the child to reside at a particular agency.
 56. "Potentially hazardous food" means a food that is:
 - a. Natural or synthetic and capable of rapid and progressive growth of infectious or toxigenic microorganisms or the growth and production of *Clostridium botulinum*;
 - b. Of animal origin and is raw or has been heated;
 - c. Of plant origin and is heated or consists of raw seed sprouts;
 - d. A cut melon; or
 - e. A garlic and oil mixture.
 57. "Program director" means a person who meets the qualifications listed in R6-5-7432(B).
 58. "Relative" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle, or first cousin. A.R.S. § 8-501(A)(11).
 59. "Residential environment" means a facility building or any portion of a facility building that is used for living, sleeping, counseling, dining, or academic purposes.
 60. "Restrictive behavior management" means a form of behavior control that is subject to limitations as prescribed in R6-5-7456(D).
 61. "Safeguard" means to use reasonable and developmentally appropriate measures to minimize the risk of harm to a child in care and to ensure that a child in care will not be harmed by a particular object, substance, or activity. Where a specific method is not otherwise prescribed in this Article, safeguarding may include:
 - a. Locking up a particular substance or item;
 - b. Putting a substance or item beyond the reach of a child who is not mobile;
 - c. Erecting a barrier which prevents a child from reaching a particular place, item, or substance;
 - d. Mandating the use of protective safety devices; or
 - e. Providing staff supervision.
 62. "Seclusion" means placing a child alone in a room with closed, locked doors that cannot be opened from the inside as prohibited by R6-5-7456(C)(5).
 63. "Service plan," which is sometimes described as a "case plan," means a goal-oriented, time-limited individualized program of action which:
 - a. Describes the plans for treating and providing services to a child and the child's family, and
 - b. Is developed by a licensee in cooperation with a child's service team.
 64. "Service team" means the group of persons listed in R6-5-7441(E)(1) who participate in development and review of a child's service plan and discharge plan.
 65. "Shelter care facility" means an agency facility that receives children for temporary out-of-home care, 24 hours per day, when children request care, or are placed in care by a placing agency, a law enforcement agency, a parent, a guardian, or a court.
 66. "Significant person" means a person who is important or influential in a child's life and may include a family member or close friend.
 67. "Sleeping area" means a single bedroom, or a cluster of 2 or more bedrooms, located in an adjacent area of a dwelling.
 68. "Social worker" means a person with a bachelor's, master's, or doctoral degree in a field of organized work called social work, which is intended to advance the social conditions of a community through provision of counseling, guidance, and assistance, especially in the form of social services to individuals.
 69. "Staff" means a licensee's paid staff and unpaid staff.
 70. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which [the licensing authority] determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame. A.R.S. § 41-1072(3).
 71. "Swimming pool" means any on-grounds, natural or man-made body of water that is used for the purposes of swimming, recreation, or physical therapy, and includes spas and hot tubs.
 72. "Threat" means an expression of intent to hurt, destroy, or take action prohibited by this Article or the licensee's policies, but does not include an expression of intent to impose a planned consequence for misbehavior if the

consequence is not prohibited by this Article or the licensee's policies.

73. "Transitional program" means services provided to a child who is being emancipated as an adult, or a person who has reached the age of 18 and is considered an adult as a matter of law, in order to assist the child or person in becoming independent.
74. "Unpaid staff" means a licensee's volunteers, students, and interns who work, train, or assist at a facility.
75. "Unusual incident" means 1 or more of the events listed in R6-5-7434 (C), (D), (E), or (G).
76. "Work day" means 8 a.m. to 5 p.m., Monday through Friday, excluding Arizona state holidays.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7401 repealed; new Section R6-5-7401 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7402. Request for Initial Application - New Applicant

- A. A person who wants to operate a residential group care facility shall initiate the licensing process by contacting the Licensing Authority to request an application for a child welfare agency license.
- B. Upon request, the Licensing Authority shall send the prospective applicant an application package containing:
 1. A cover letter outlining the licensing process and requesting a responsive letter of intent,
 2. An application form,
 3. A statement of requirements for licensure, and
 4. A form the applicant can use to obtain city or county zoning clearance.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7402 repealed; new Section R6-5-7402 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7403. Letter of Intent - New Applicant

- A. The prospective applicant shall prepare a responsive letter of intent to proceed with licensure, and return it to the Licensing Authority. The letter of intent shall include the following information:
 1. The applicant's name, address, and telephone and telefacsimile numbers;
 2. The name of the applicant's chief executive officer or administrator, with a description of that person's qualifications to operate the agency;
 3. A description of community or statewide need for the service or program the applicant intends to provide;
 4. A plan for financing the proposed agency during the first year of operation;
 5. A statement that the applicant has conferred with the school district where the facility will be located to advise the district of any special needs that children likely to be in care at the facility may have; and
 6. A description of the proposed agency's program and services, which shall address the following areas, if applicable:
 - a. Any organization from which the applicant will seek accreditation;
 - b. The form of on-campus educational programs the applicant will offer;
 - c. The characteristics of the children the applicant plans to serve;
 - d. The applicant's primary source of referrals;

- e. The frequency and method by which the applicant will provide or offer psychiatric, psychological, or counseling services;
- f. Whether the applicant will employ behavioral health practitioners, or contract for behavioral health services; and
- g. A general description of the number and qualifications of the applicant's professional staff.

- B. Within 10 work days of receiving a letter of intent, a licensing representative shall contact the applicant.

1. If the Licensing Authority determines that an applicant may require licensure as a behavioral health service agency under A.R.S. § 36-405 and 9 A.A.C. 20, the Licensing Authority shall refer the applicant to the Department of Health Services for evaluation. In determining whether to refer an applicant to DHS, the Licensing Authority shall consider the factors set forth on Appendix 1.
2. For all other applicants, the representative shall schedule an appointment for a licensing consultation. The appointment shall occur within 45 calendar days of the date the Licensing Authority receives the letter of intent, unless the applicant requests a later consultation.
3. If DHS declines to license an applicant as a behavioral health service agency, and refers an applicant to the Department for licensure as a child welfare agency, the applicant shall contact the Licensing Authority to request a licensing consultation. The Licensing Authority shall schedule the consultation within 45 calendar days of the date of the request, unless the applicant requests a later consultation.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Amended subsection (O), paragraph (1) effective January 21, 1985 (Supp. 85-1). Former Section R6-5-7403 repealed; new Section R6-5-7403 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7404. The Licensing Consultation; Time for Completion of Application

- A. At the licensing consultation, a licensing representative shall review the licensing application form with the applicant. The licensing representative shall explain the requirements for licensure and shall advise the applicant about:
 1. The information and documentation the applicant must provide to complete the application or licensing process, as set forth in R6-5-7405;
 2. The fingerprinting and background checks required by A.R.S. § 46-141 and R6-5-7431;
 3. The need for a DHS health and safety inspection of the agency and each facility, and the process for scheduling the inspection;
 4. The need to obtain a fire inspection and zoning clearance for the each facility;
 5. The need to confer with the local school district to discuss any special educational needs that the children to be served may present;
 6. The timelines for submission of application information; and
 7. The need for the Licensing Authority to conduct a site inspection as prescribed in R6-5-7406.
- B. No later than 60 days after the licensing consultation, the applicant shall provide the Licensing Authority with a complete application package, as prescribed in R6-5-7405(A).

- C. If the applicant cannot provide the information within 60 days, the applicant shall contact the Licensing Authority to request an extension of time. The Licensing Authority shall allow an extension for a fixed period of time, which shall not exceed 120 days past the original 60 days.
- D. If the applicant fails to provide the information within the time periods specified in subsections (B) and (C), the Licensing Authority shall close the applicant's file and send the applicant a written notice of closure. An applicant whose file has been closed shall reapply.
- E. For an initial application, the administrative completeness review time frame described in A.R.S. § 41-1072(1) begins when the applicant submits the application form and the required documentation listed in R6-5-7405(A).

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7404 repealed; new Section R6-5-7404 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7405. Complete Application; Initial License - New Applicant

- A. A complete application package for an initial license of a new agency shall contain the information and supporting documentation listed in this subsection.
 - 1. Identification and background information: agency, facility, administrators.
 - a. Name, address, and telephone and telefacsimile numbers for the agency and all facilities operated by the agency;
 - b. Name, title, business address, and telephone and telefacsimile numbers of:
 - i. The person who serves as the chief executive officer (CEO) as prescribed in R6-5-7432(A);
 - ii. The person who serves as the program director as prescribed in R6-5-7432(B);
 - iii. The person with delegated authority to act when the CEO is absent;
 - iv. The person in charge of each separate facility as prescribed in R6-5-7432(C);
 - v. Persons holding at least a 10% ownership interest in the applicant; and
 - vi. The agency and facility medical directors, if applicable;
 - c. The educational qualifications and work history for each person identified in subsection (A)(1)(b), with that person's attached resume, employment application, or *curriculum vitae*;
 - d. A list of the members of the agency's governing body described in R6-5-7424, including: name, address, position in the agency, term of membership, and any relationship to the applicant;
 - e. A list of licenses or certificates for provision of medical or social services, currently or previously held by the applicant or persons listed in subsection (A)(1)(b), including those held in this state or another state or country;
 - f. A written description of any proceedings for denial, suspension or revocation of a license or certificate for provision of medical, psychological, behavioral health, or social services, pending or filed, or brought against the applicant or a person listed in subsection (A)(1)(b), including those held in this state or another state or country; and
 - g. A written description of any litigation in which the applicant or a person listed in subsection (A)(1)(b)

- has been a party, including, without limitation, collection matters and bankruptcy proceedings during the 10 years preceding the date of application.
- 2. Business organization.
 - a. An organizational chart for the agency and each separate facility, showing administrative structure and staffing, and lines of authority;
 - b. Business organization documents appropriate to the applicant, including:
 - i. Articles of incorporation, by-laws, annual reports for the preceding 3 years; or
 - ii. Partnership or joint venture agreement;
 - c. For corporations, a certificate of good standing from the Arizona Corporation Commission or comparable entity from a foreign state; and
 - d. A statement as to whether the applicant is for-profit or not-for-profit if not explained in other documents already provided.
- 3. Staff.
 - a. A list of the applicant's paid staff, including:
 - i. Name;
 - ii. Position or title;
 - iii. Degrees, certificates, or licenses held;
 - iii. Business address;
 - iv. Date of hire;
 - v. Date of last physical; and
 - vi. Date of submission for fingerprinting and background clearance;
 - b. Evidence that staff have submitted fingerprints and criminal background information, as prescribed in A.R.S. § 46-141 and R6-5-7431 and obtained a physical exam as prescribed in R6-5-7431(F); and
 - c. For any staff whose primary residence is the facility,
 - i. The name and date of birth of any persons residing with the staff member;
 - ii. Evidence that any adult residing with the staff member has submitted fingerprints and criminal background information as prescribed in R6-5-7431 and is free from communicable diseases posing a danger to children in care, as prescribed in R6-5-7431(H); and
 - iii. Evidence that the staff member's children who reside at the facility have current immunizations.
- 4. Financial Stability.
 - a. A written, proposed operating budget for start up and the 1st year of operation;
 - b. Verifiable documentation of funds available to pay start-up costs; the funds shall be in the form of cash or written authorization for a line of credit;
 - c. Verifiable documentation of funds available to pay operating expenses for the 1st 3 months of operations; the funds shall be in the form of cash or written authorization for a line of credit;
 - d. Verifiable documentation of financial resources to operate in accordance with the proposed operating budget for the remaining 9 months of the licensing year; the resources may include:
 - i. Cash;
 - ii. Contracts for placement;
 - iii. Donations;
 - iv. Grants; and
 - v. Authorization for a line of credit;
 - e. If the applicant or 1 of the persons listed in subsection (A)(1)(b) has operated any child welfare agency in this state or any other state during the past 10

- years, the most recent financial statement and financial audit for that agency, unless the most recent statement or audit is more than 10 years old; and
- f. A certificate of insurance, or letter of commitment from an insurer, showing that the applicant has insurance coverage as prescribed in R6-5-7426.
5. Program.
 - a. Informational or advertising material about the agency and its facility;
 - b. For each facility, a written description of:
 - i. All services the applicant intends to provide;
 - ii. The number and type of children the applicant will serve, including: age, gender, special needs, or particular behavior problems;
 - iii. The anticipated sources of placement and referral;
 - iv. Number and qualifications of paid staff who will provide services, including the staff-child ratio, per living unit, during a 24-hour day, for a 7-day week; and
 - c. Program description, including:
 - i. Goals and objectives;
 - ii. Educational activities, with attached copy of Arizona Department of Education approval, if applicable;
 - iii. Recreational activities;
 - iv. Food and nutrition, with sample menus;
 - v. Behavior management practices;
 - vi. Religious practices, if any; and
 - vii. Medical services.
 6. Documentation, Forms, and Notices. Samples of all documents, forms, and notices which the applicant will use with or provide to children placed with the agency, the parents and guardians of those children, and the persons and entities who place children, including:
 - a. Agency application for services;
 - b. Agency placement agreement;
 - c. Intake form;
 - d. Child's case file and medical record;
 - e. Forms for reports to courts and placing agencies;
 - f. Statement of client rights;
 - g. Unusual incident reports; and
 - h. Sample medication logs.
 7. Policies and Procedures. The applicant's internal policies, procedures, and operations manual.
 8. Physical site and environment.
 - a. The floor plan for each facility;
 - b. A DHS health and safety inspection report for each facility;
 - c. Documentation showing that the local zoning authority verifies that each agency facility complies with all applicable zoning requirements;
 - d. Fire safety inspection report from the state fire marshal or a local fire department inspector for each facility;
 - e. Any water supply report as prescribed in R6-5-7458(D);
 - f. Gas equipment inspection report as prescribed in R6-5-7465(D)(1); and
 - g. Any other inspection certificates or reports prescribed in this Article, and any building occupancy certificates.
 9. Miscellaneous.
 - a. A statement authorizing the Department to investigate the applicant;
 - b. The signature, under penalty of perjury, of the agency administrator or person submitting the application, attesting to the truthfulness of the information contained in the application; and
 - c. The date of application.
- B. If an applicant has attached a copy of a policy or procedure which describes the applicant's practice or procedure on a particular issue, the applicant need not separately describe the policy or procedure on the application form, but shall indicate that the description is contained in a particular identified and attached policy.
 - C. If the Licensing Authority needs additional information to determine the applicant's fitness to hold a license or an operating certificate, ability to perform the duties of a licensee as prescribed in the applicant's policies, procedures, and program description, the Licensing Authority may require the applicant to provide additional information, including a signed form permitting a specifically named person or entity to release information to the Licensing Authority.
 - D. An agency which does not have or is unable to obtain all or part of the information or supporting documentation listed in subsection (A) shall so indicate in a written statement filed with the application. The written statement shall explain why the information or documentation is unavailable.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7405 repealed; new Section R6-5-7405 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7406. Site Inspection

- A. After receiving a complete application package, the Licensing Authority shall notify the applicant that the application is complete, and shall schedule the applicant for a site inspection, which may require more than 1 visit to a site.
- B. The site inspection shall begin no later than 45 days after the Licensing Authority receives the applicant's completed application package.
- C. During the site inspection, the licensing representative shall:
 1. Inspect the facility to ensure that any deficiencies identified in the DHS inspection report have been remedied;
 2. Verify that the facility meets the requirements of this Article;
 3. Review the applicant's policies and procedures;
 4. Review model client files;
 5. Review personnel files;
 6. Inspect the applicant's books, records, and proposed forms;
 7. Interview 1 or more of the applicant's governing board members, incorporators or organizers, and a representative sampling of staff who have been hired; and
 8. Inspect the applicant's computer security system and review the applicant's confidentiality safeguards.
- D. For an initial application, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 75 days. Before expiration of the time frame, the Licensing Authority shall send the applicant written notice of administrative completeness or deficiency as prescribed in A.R.S. § 41-1074(A).
- E. If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Licensing Authority may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7406 repealed; new Section R6-5-7407 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7407. Licensing Study

- A. The licensing representative shall summarize the results of the site visit, and other information gathered during the licensing process in a written licensing study, which shall be the basis for the licensing decision.
- B. The licensing study shall describe whether the applicant has:
 1. Complied with all application and inspection requirements; and
 2. Demonstrated that it has:
 - a. The capital to pay all start-up costs and the financial ability to meet 1 year's operating expenses, as prescribed in R6-5-7405(A)(4);
 - b. The staff, expertise, facilities, and equipment to provide the services it plans to offer; and
 - c. The ability and intent to comply with the standards and requirements of this Article.
- C. The applicant may obtain a copy of the licensing study, upon request.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7407 repealed; new Section R6-5-7407 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7408. Licensing Decision: Issuance; Denial; Time Frames

- A. The Licensing Authority shall issue a written licensing decision within 30 days of concluding the applicant's final site visit. This 30 day period is the substantive review time frame required by A.R.S. § 41-1072(3).
- B. The licensing decision shall explain whether the Licensing Authority will grant or deny a license, and the terms of the license.
 1. If the Licensing Authority grants a license, the Licensing Authority shall send the license and any operating certificates with the notification letter.
 2. If the Licensing Authority issues a provisional license as prescribed in R6-5-7419 or denies a license, the Licensing Authority shall send the notice by certified mail. The notice shall contain the information listed in R6-5-7421(B) for a notice of adverse action.
- C. The overall time frame for an initial license is 105 days.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7408 repealed; new Section R6-5-7408 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7409. Licenses and Operating Certificates: Form; Term; Nontransferability

- A. If an agency's administrative office is located separately from an agency facility, the Licensing Authority shall issue a license to the agency and an operating certificate to each facility the agency operates. If the agency and facility occupy the same location, the Licensing Authority shall issue only a license, with the information required for an operating certificate.
 1. A license shall:
 - a. Identify the agency name, and the geographic area in which the agency is licensed to operate;

- b. List each facility the agency operates, and the total number of children the agency is authorized to serve; and
 - c. Require the agency to operate each facility in accordance with the operating certificate issued to the particular facility.
2. An operating certificate shall:
 - a. Identify the agency operating the facility;
 - b. Identify the facility name, if different from the agency name, and the geographical area in which the facility is authorized to operate;
 - c. List the type of service or program to be offered at the facility; and
 - d. Specify the number, gender, and ages of children the facility may receive for care.
- B. An operating certificate is not valid unless it has been issued in the name of an agency holding a license. Except as otherwise prescribed in subsection (A) for an agency and facility at the same location, a facility cannot operate without a current operating certificate.
- C. A license and an operating certificate expire 1 year from the date of issuance, except as otherwise provided in R6-5-7410 for satellite facilities and in R6-5-7419 for provisional licenses.
- D. An agency shall post its current license in the agency, in a conspicuous location, visible to the public. The agency shall post a facility's current operating certificate in a conspicuous location within the facility.
- E. A license and an operating certificate cannot be transferred or assigned, and shall expire upon a change in ownership. For the purpose of this Section, a "change in ownership" includes any of the following events:
 1. Sale or transfer of the agency or facility;
 2. Bulk sale or transfer of the agency's or facility's assets or liabilities;
 3. Placement of the agency or facility in the control of a court appointed receiver or trustee;
 4. Bankruptcy of the agency or facility;
 5. Change in the composition of the partners or joint venturers of an agency or facility organized as a partnership;
 6. Sale or transfer of a controlling interest in the stock of a corporate agency or facility; or
 7. Loss of an agency's or facility's nonprofit status.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Amended effective May 25, 1979 (Supp. 79-3). Amended subsection (H) effective January 2, 1981 (Supp. 81-1). Former Section R6-5-7409 repealed; new Section R6-5-7409 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7410. Licensed Agency: Application for an Operating Certificate for an Additional Satellite Facility

- A. A currently licensed agency that wishes to obtain an operating certificate for an additional satellite facility shall send the Licensing Authority a letter of intent. The letter of intent shall include the following information:
 1. The applicant's name, address, and telephone and telefacsimile numbers;
 2. The name of the applicant's chief executive officer or administrator;
 3. The name, address, and telephone and telefacsimile numbers of the additional facility;
 4. A request that the Licensing Authority schedule the additional facility for a DHS health and safety inspection;

5. The name of the person who will be in charge of the additional facility, with a description of that person's qualifications;
 6. A description of program and services to be offered at the proposed facility, including any policy or procedures unique to the facility;
 7. A statement as prescribed in R6-5-7403(A)(5) for the applicable school district; and
 8. All of the information listed in R6-5-7405(A) that differs from the information already on file for the agency, including:
 - a. Floor plan,
 - b. Fire inspection,
 - c. Zoning clearance letter,
 - d. Certificate of insurance,
 - e. Evidence of financial stability,
 - f. List of paid staff with the information required by R6-5-7405(A)(3), and
 - g. Facility staffing schedule.
- B.** Upon receipt of all information listed in subsection (A), and a report of the DHS health and safety inspection, the Licensing Authority shall schedule the facility for a site inspection, as provided in R6-5-7406.
- C.** The Licensing Authority shall prepare a licensing study and issue a licensing decision on the application for the additional operating certificate as prescribed in R6-5-7407 through R6-5-7408. In determining whether to grant an additional operating certificate to an agency operating under a provisional license, the Licensing Authority shall also consider:
1. The nature and extent of the problems giving rise to the deficiency that caused the agency to be placed on provisional license status; and
 2. The agency's progress on its corrective action to resolve the problems.
- D.** An operating certificate for an additional satellite facility expires at the end of an agency's regular licensing year.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7410 repealed; new Section R6-5-7410 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7411. Application for Renewal of License and Operating Certificates

- A.** No earlier than 90 and no later than 60 days prior to the expiration date of a license, an agency may apply to the Licensing Authority for renewal of its license and any operating certificates. The Licensing Authority does not have a duty to notify the agency of license expiration. The agency shall contact the Licensing Authority to request a renewal application and to schedule a DHS health and safety inspection. The agency shall schedule its own fire inspection. Failure to timely apply or obtain inspections may result in suspension of the agency's license until the renewal process is completed.
- B.** An agency shall apply for renewal on a Department application form containing the information listed in R6-5-7405(A).
- C.** An agency shall submit copies of the completed application and supporting documents listed in R6-5-7405(A) to the Licensing Authority. If the agency has not amended, changed or updated the information or documentation since the agency last applied for or renewed its license, the agency may indicate "no change" on the renewal application form.
- D.** With a renewal application, the agency shall also submit the following documentation:
 1. A current financial statement prepared by an independent certified public accountant who is not employed by the agency;
 2. A certificate of current insurance coverage as prescribed in R6-5-7426;
 3. A copy of the agency's current budget and the agency's audit report for its preceding fiscal year;
 4. Copies of any written complaints the agency has received about its performance at its facility during the expiring license year and the agency's response to the complaints; and
 5. A written description of any changes in program services or locations, or the children served by the agency.
- E.** For a renewal application, the administrative completeness review time frame described in A.R.S. § 41-1072(1) begins when the applicant submits a renewal application form and the required documentation listed in this Section.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7411 repealed; new Section R6-5-7411 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7412. Renewal of License and Operating Certificates: Site Inspection; Time Frames; Standard for Issuance

- A.** Upon receipt of a complete renewal application, the Licensing Authority shall schedule the renewal applicant for a DHS health and safety inspection.
- B.** Upon receipt of the DHS inspection report and a complete renewal application package, the Licensing Authority shall schedule the applicant for a site inspection of the agency and each agency facility.
- C.** At the renewal site inspection, the licensing representative shall investigate the agency and facilities as prescribed in R6-5-7406, and may also:
 1. Interview staff,
 2. Interview clients and references,
 3. Observe staffings,
 4. Review a random sample of client and staff files,
 5. Conduct field visits to agency branch offices and facilities.
- D.** For a renewal application, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 45 days. Before expiration of the time frame, the Licensing Authority shall send the applicant written notice of administrative completeness or deficiency as prescribed in A.R.S. § 41-1074(A).
- E.** If the applicant does not supply the missing information, as prescribed in the notice, within 60 days of the notice date, the Licensing Authority may close the file. An applicant whose file has been closed, who later wishes to become licensed, may reapply.
- F.** The Licensing Authority shall issue a licensing decision within 25 calendar days of concluding the applicant's final site visit. This 25-day period is the substantive review time frame under A.R.S. § 41-1072(3). The overall time frame for a issuance of a renewal license is 70 days.
- G.** The Licensing Authority may renew an agency's license and any operating certificate for its facility when the agency and facility:
 1. Demonstrate compliance with the standards set forth in applicable statutes and this Article;
 2. Have complied with applicable statutes and the requirements of this Article during the expiring period of licensure; and

3. Have corrected any problems that resulted in imposition of a provisional license.
- H. The Licensing Authority shall issue a renewal licensing decision as prescribed in R6-5-7408(B).

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7412 repealed; new Section R6-5-7412 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7413. Notification to Licensing Authority of Changes Affecting License; Staff Changes

- A. A licensee shall send the Licensing Authority written notification of any planned change in the licensee's name, ownership, agency location, facility location, governing board member, chief executive officer, or program director, at least 1 month before the change. If the change occurs without sufficient time for prior written notice, the licensee shall orally notify the Licensing Authority as soon as the change is known, and shall send the Licensing Authority written confirmation within 48 hours of giving oral notice.
- B. If a licensee wishes to make a substantial change as described in subsection (C), the licensee shall:
 1. Provide the Licensing Authority with prior written notice of the change at least 1 month before the effective date of the change; and
 2. Apply for an amended license as prescribed in R6-5-7414.
- C. As used in subsection (B), "substantial change" means any of the following:
 1. An event that will cause the licensee to be out of compliance with:
 - a. The terms stated on the face of the license or an operating certificate; or
 - b. A standard prescribed in this Article;
 2. A change in a building or a physical site at the agency or facility if that change will alter the level or nature of care provided to children; or
 3. Substantive revision of the policies and procedures required by this Article.
- D. Within 5 work days of a paid staff member's hiring or separation, the licensee shall complete and send the Licensing Authority a Department form LC-008, "Child Welfare Agency Employee Central Registry," with the following information on the paid staff member:
 1. Name,
 2. Date of birth,
 3. Social security number,
 4. Date fingerprinted and fingerprinting results,
 5. Position held,
 6. Date of and reason for separation from employment, and
 7. Opportunity for rehire.

Historical Note

Adopted effective May 19, 1977 (Supp. 77-3). Former Section R6-5-7413 repealed; new Section R6-5-7413 filed with the Secretary of State's Office May 15, 1997; adopted effective July 1, 1997 (Supp. 97-2).

R6-5-7414. Amended License or Operating Certificate

- A. The Licensing Authority may issue an amended license or operating certificate to reflect a change in an agency or facility name or the terms of a license or an operating certificate if the change does not cause the agency or facility to fall out of compliance with applicable statutes and this Article.

- B. The Licensing Authority shall not issue a license for an agency or an operating certificate for a facility that has moved to a new location until the agency or facility has:
 1. Provided the information listed in R6-5-7405(A)(8),
 2. Passed a DHS health and safety inspection,
 3. Passed a fire inspection,
 4. Passed a Licensing Authority site inspection, and
 5. Submitted any new staff and household members for fingerprinting and criminal background checks as prescribed in A.R.S. § 46-141 and R6-5-7431.
- C. An amended license or operating certificate expires at the end of the agency or facility's regular licensing year.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7415. Alternative Method of Compliance

- A. The Licensing Authority, with the approval of the Attorney General's Office, may permit a licensee to substitute an alternative method of compliance for a licensing requirement or objective prescribed in this Article and not otherwise required by law, if the following conditions are met:
 1. The licensee seeking to achieve compliance through an alternative methodology proposes, to the satisfaction of the Licensing Authority, that the licensee can satisfy the objective of the requirement through the alternative methodology; and
 2. Allowing the licensee to achieve compliance through an alternative method will not jeopardize the health, safety, or well-being of children who are or may be placed in the licensee's care.
- B. Approval of an alternative methodology expires as prescribed in the written letter authorizing the alternative, or at the end of the licensing year, and must be annually renewed.
- C. The Licensing Authority is not obligated to permit an alternative method of compliance or to renew approval of the alternative methodology.
- D. The Licensing Authority shall document the alternative and the findings required by subsection (A) in the licensing file.
- E. The Licensing Authority may revoke the licensee's permission to comply through an alternative method if the Licensing Authority finds that a condition listed in subsection (A)(1) or (2) is not met.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7416. Monitoring

- A. The Licensing Authority shall monitor the ongoing operations of agencies and facilities.
- B. Monitoring activities may include the following:
 1. Announced and unannounced inspections of an agency or a facility, including both physical premises and internal operations, books, records, policies, procedures, logs, manuals, files, inspection reports, certificates, and any other document prescribed by this Article;
 2. Interviews with clients, staff, or other persons with information about the agency; and
 3. Observation of program activities.
- C. A licensee shall cooperate with the Licensing Authority's monitoring functions. Cooperation includes:
 1. Making the agency, facility, and program activities available to licensing representatives for inspection and observation;
 2. Providing the Licensing Authority with information or documentation requested;

3. Making staff available for interview; and
4. Allowing children in care to be interviewed.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7417. Complaints; Investigations

- A. If the Licensing Authority receives an oral complaint about a licensee, agency, or facility, the Licensing Authority shall ask the complaining party to submit the complaint in writing, but shall investigate complaints as prescribed in this Section even if the complaining party does not put the complaint in writing.
- B. The Licensing Authority shall refer all complaints involving allegations of child maltreatment to CPS as required by A.R.S. § 13-3620 for investigation as prescribed in A.R.S. § 8-546.01(C).
- C. The Licensing Authority shall investigate complaints about a licensee through 1 or more of the following methods:
 1. Telephone contact with the licensee,
 2. Interviews with the complaining party,
 3. Interviews with the licensee's staff,
 4. Interviews with the licensee's clients,
 5. Interviews of witnesses to the matters at issue,
 6. Inspections of records and documents related to the issues raised in the complaint,
 7. Announced and unannounced inspections of the agency or a facility,
 8. Evaluation of a law enforcement or CPS report for evidence of a licensing violation, and
 9. Any other activity necessary to validate or refute the allegations.
- D. A licensee shall cooperate in any Department investigation as prescribed in R6-5-7416(C).
- E. Upon completion of an investigation as described in subsection (C), the Licensing Authority shall:
 1. Find that the complaint is invalid, document the findings in the agency's licensing file, and close the investigation;
 2. Find that the complaint is valid and take disciplinary action against the licensee as prescribed in R6-5-7419 and R6-5-7420, or require corrective action as prescribed in R6-5-7418; or
 3. Find that the complaint cannot be validated or refuted based on the available evidence and document the finding in the licensing file.
- F. The Licensing Authority shall provide the licensee with an oral report of any findings made under subsection (E) and, upon the licensee's request, a copy of the written findings placed in the licensee's file. At the time of giving the oral report, the licensing representative shall advise the licensee of the opportunity to obtain a copy of the written findings.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7418. Corrective Action

- A. If a deficiency is correctable within a specified period of time and does not jeopardize the health or safety of a child, the Licensing Authority may place the agency on a corrective action plan to cure the deficiency in lieu of the disciplinary measures prescribed in R6-5-7419 and R6-5-7420.
- B. In determining whether to require corrective action in lieu of other disciplinary action, the Licensing Authority shall consider the following criteria:
 1. The nature of the deficiency;
 2. Whether the deficiency can be corrected;

3. Whether the licensee and its affected staff understand the deficiency and show a willingness and ability to participate in corrective action;
 4. The length of time required to implement corrective action;
 5. Whether the same or similar deficiencies have occurred on prior occasions;
 6. Whether the licensee has had prior corrective action plans, and, if so, the licensee's success in achieving the required goals of the plan;
 7. The licensee's history in providing care; and
 8. Other similar or comparable factors demonstrating the licensee's ability and willingness to follow through with a corrective action plan and avoid future deficiencies.
- C. The agency shall prepare a corrective action plan for the review and approval of the Licensing Authority.
 1. The plan shall explain:
 - a. How the agency will remedy the non-compliance;
 - b. The time periods for completing all corrective action; and
 - c. The agency staff responsible for carrying out the corrective action plan.
 2. The plan shall provide for the agency to send the Licensing Authority periodic reports on the agency's progress, and a final report when all corrective action is completed.
 3. An authorized representative of the agency shall sign and date the corrective action plan.
 - D. In deciding whether to approve a plan, the Licensing Authority shall ensure that the plan:
 1. Will correct the identified deficiency within a specified period of time;
 2. Identifies persons responsible for executing the steps listed in the plan; and
 3. Permits the Licensing Authority to monitor the licensee's progress in completing the plan.
 - E. The Licensing Authority may conduct announced and unannounced inspections of the agency or facility to monitor implementation of a corrective action plan. The licensee shall cooperate in any monitoring inspection as prescribed in R6-5-7416(C).

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7419. Provisional License

- A. If an agency or a facility is temporarily unable to conform to the standards prescribed in this Article, the Licensing Authority may issue a provisional license to the agency, or convert a regular license to provisional status, as prescribed in A.R.S. § 8-505(C). For the purpose of this Section, "temporarily unable" means a time period of 6 months or less.
- B. The Licensing Authority may impose provisional license status on an agency operating multiple facilities even though less than all facilities are out of compliance.
- C. The Licensing Authority may issue a provisional license only when:
 1. The non-compliance is correctable; and
 2. The non-compliance does not jeopardize the health, safety, or well-being of children in care.
- D. If the Licensing Authority issues a provisional license, the agency shall cooperate with the Licensing Authority to develop a written corrective action plan that meets the requirements of R6-5-7418(C) and (D) and shall comply with the terms of the plan.
- E. If an agency receives a provisional license at the time of annual renewal and the license is later converted to a regular

license during the agency's licensing year, the regular license expires 1 year from the date the provisional license was issued.

- F.** If an agency receives a regular license at the time of annual renewal, and the license is converted to a provisional license during the agency's licensing year, the agency's license expires 1 year from the date the regular license was issued.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6 5-7420. Denial, Suspension, and Revocation of a License or Operating Certificate

- A.** The Licensing Authority may deny, suspend, or revoke a license or operating certificate when:
1. An applicant or licensee has violated or is not in compliance with licensing rules and standards, Arizona state or federal statutes, or city or county ordinances or codes;
 2. An applicant or licensee refuses to cooperate with the Licensing Authority in providing information required by these rules or any information required to determine compliance with these rules;
 3. An applicant or licensee misrepresents or fails to disclose information to the Department regarding qualifications, experience, or performance of duties;
 4. A licensee fails to cooperate in developing a corrective action plan after a request by the Licensing Authority, or fails to comply with a corrective action plan; or
 5. An applicant or licensee is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children in care.
- B.** In determining whether to deny a license, to take disciplinary action against a licensee, or to renew a license, the Licensing Authority may consider the licensee's past history from other licensing periods, both in Arizona and in other jurisdictions, and shall consider a pattern of violations of applicable child welfare statutes or rules, as evidence that an applicant or licensee is unable or unwilling to meet the physical, emotional, social, educational, or psychological needs of children.
- C.** The Licensing Authority shall deny, suspend, or revoke a license when an individual applicant or licensee has been convicted of or is awaiting trial on the criminal offenses listed in A.R.S. § 46-141.
- D.** The Licensing Authority shall deny, suspend, or revoke a license when an agency or facility:
1. Retains staff who have been convicted of or are awaiting trial on the criminal offenses listed in A.R.S. § 46-141;
 2. Allows an adult other than those described in subsection (D)(1), who has been convicted of or is awaiting trial on the offenses listed in A.R.S. § 46-141, to reside at a facility; or
 3. Allows any staff or other adult at the facility, who has committed an offense listed in A.R.S. § 46-141(D), to have contact with children in care.
- E.** The Licensing Authority may deny, suspend, or revoke a license when an applicant or licensee, any staff member, or any other adult who resides at the facility, has been convicted of or found by a court to have committed, or is awaiting trial on any criminal offense, other than those listed in A.R.S. § 46-141. In determining whether a person's criminal history affects an applicant's or licensee's fitness to hold a license, the Licensing Authority shall consider all relevant factors, including the following:
1. The extent of the person's criminal record, if any;
 2. The length of time which has elapsed since the offense was committed;

3. The nature of the offense and whether the offense was originally classified as a felony or a misdemeanor;
4. The circumstances surrounding the offense;
5. The degree to which the person participated in committing the offense;
6. The extent of the person's rehabilitation; and
7. The person's role within the agency or facility.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7421. Adverse Action; Procedures; Effective Date

- A.** When the Licensing Authority plans to take adverse action against a licensee, the Licensing Authority shall give the licensee written notice of the adverse action by certified mail.
- B.** The notice shall specify:
1. The action taken;
 2. All reasons supporting the action;
 3. The sections of law justifying the action;
 4. The procedures by which an applicant or licensee may contest the action taken, and the time periods for doing so;
 5. An explanation of the applicant or licensee's right to request an informal settlement conference as prescribed in A.R.S. § 41-1092.03(A); and
 6. If the Licensing Authority summarily suspends a license as provided in A.R.S. § 41-1064(C), the required finding of emergency.
- C.** The following actions are not appealable adverse actions:
1. Imposition of a corrective action plan to bring the licensee into compliance with licensing requirements, absent any material change in licensing status;
 2. Denial or revocation of permission for an alternate method of compliance or operation of a barracks facility as prescribed in R6-5-7461(B) and R6-5-7462(B); and
 3. A staff member's failure to clear the criminal history check prescribed in R6-5-7431(B).
- D.** Except as otherwise provided in A.R.S. § 41-1064 for emergency suspensions, adverse action is effective:
1. If a licensee does not appeal the adverse action, 31 days after the postmark date of the notice prescribed in subsection (A); or
 2. If the licensee appeals the adverse action, when there is a final administrative decision, as prescribed in A.R.S. § 41-1092.08(D), affirming the adverse action.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7422. Appeals

- A.** An applicant may appeal the denial of a license and a licensee may appeal adverse action under A.R.S. § 8-506.01 and A.R.S. Title 41, Chapter 6, Article 10.
- B.** The applicant or licensee shall file a notice of appeal with the Licensing Authority. The notice shall contain the information required by A.R.S. § 41-1092.03(B).

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7423. Statement of Purpose; Program Description and Evaluation; Compliance With Adopted Policies; Client Rights; Single Category of Care

- A.** A licensee shall have a written statement which describes its philosophy, purpose, and program for children in care, and the nature and extent of any family involvement in the program.

- B. A licensee shall have a written description of all services each facility provides to children in care and their families and the methods of service delivery.
- C. A licensee shall follow all plans, policies, and procedures the licensee adopts in accordance with this Article.
- D. A licensee shall annually evaluate whether a facility is achieving the objectives described in R6-5-7405(A)(5)(c)(i). The licensee shall make a written report of the evaluation and provide a copy to the Licensing Authority at the time of license renewal.
- E. A licensee shall have a statement of client rights.
- F. A licensee shall not combine its child welfare program, as defined pursuant to subsection (A), with other forms of care or programming such as child care, nursing or convalescent care for adults, or adult developmental care unless the licensee:
 1. Physically separates children in the child welfare program from persons in other programs, and
 2. Prevents interaction between children in the child welfare program and persons in other programs.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7424. Governing Body

- A. A licensee shall have a governing body to oversee the operations, policies, and practices of the agency and its facilities. The governing body shall be:
 1. The board of directors for an agency that is a non-profit corporation, or
 2. The board of directors or individual owner of an agency that is a for-profit organization.
- B. The governing body shall:
 1. Ensure that the licensee provides the services described in the licensee's statement of purpose;
 2. Adopt an annual budget of anticipated income and expenditures necessary to provide the services described in the licensee's statement of purpose;
 3. Approve the licensee's annual financial audit report;
 4. Establish a policy and procedure for selection and retention of staff sufficient to operate the agency and its facilities in accordance with this Article;
 5. Unless the licensee is a sole proprietorship, meet at least 4 times each year, and maintain records of attendance and minutes of the meetings;
 6. Develop criteria and written procedures for selection of the governing body members, and the chief executive officer as required by R6-5-7432(A);
 7. Employ a chief executive officer who meets the qualifications prescribed in R6-5-7432(A), to whom the governing body shall delegate responsibility for the daily administration and operation of the agency;
 8. Regularly evaluate the chief executive officer's performance; and
 9. Review and approve the agency's policies and procedures, and any amendments to them.
- C. A licensee shall maintain a list of the governing body's members; the list shall include each member's the name, address, term of membership, and relationship to the licensee, if any.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7425. Business and Fiscal Management; Annual Audit

- A. A licensee shall maintain complete and accurate accounts, books, and records as prescribed in this Article, and in accordance with generally accepted accounting practice.

- B. A licensee shall operate on the annual budget approved by its governing board.
- C. A licensee shall regularly record its financial transactions and maintain, for 5 years, its financial records including receipts, disbursements, assets, and liabilities.
- D. A licensee shall have an annual, fiscal year-end, financial audit by an independent certified public accountant who shall conduct the audit in accordance with generally accepted auditing standards. The audit report shall include the following financial information:
 1. Income statement,
 2. Balance sheet,
 3. Statement of cash flow,
 4. A statement showing monies or other benefits the licensee has paid or transferred to any of the following:
 - a. Business entities affiliated with the licensee,
 - b. The licensee's directors or officers,
 - c. The licensee's chief executive officer or program director,
 - d. The family member of a person listed in subsections (D)(2)(e)(ii) or (iii), or
 - e. Another agency.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7426. Insurance Coverage

A licensee shall have insurance coverage that provides protection against financial loss as prescribed in this Section.

1. The licensee shall carry liability insurance covering accidents, injuries, errors and omissions in the minimum amount of \$100,000 per person, and \$300,000 per accident or event.
2. The licensee shall ensure that any vehicle the licensee owns or uses to transport children in care has the following insurance coverage:
 - a. Injury per person: \$100,000,
 - b. Injury per accident: \$300,000, and
 - c. Property damage: \$25,000.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7427. Confidentiality

- A. Except as otherwise allowed by law, a licensee's records concerning children in care and their families are confidential, and the licensee shall not disclose or knowingly permit the disclosure of confidential information.
- B. A licensee shall have written policies and procedures for keeping records secure, in a manner that preserves confidentiality and prevents loss, tampering, or unauthorized use. The policies and procedures shall:
 1. Be consistent with any laws applicable to the specific records at issue; and
 2. Cover the following:
 - a. The form in which children's records are maintained and stored;
 - b. Identification of the staff who:
 - i. Supervise the maintenance of records,
 - ii. Have custody of records, and
 - iii. Have access to records;
 - c. The persons to whom records may be released and under what circumstances records may be released, including release of information to custodial and non-custodial parents and guardians;

- d. Photography, audio or audio-visual recording, and public identification of children; and
 - e. Participation of children or use of children's records in data research.
- C.** Before using personally identifiable information for publicity, fundraising, or research, a licensee shall obtain:
- 1. A written consent to release, as prescribed in subsection (E), from the child who is the subject of the information, if developmentally appropriate; and
 - 2. A written consent to release, as prescribed in subsection (E), from the child's placing agency or person; or
 - 3. Written authorization from the court, if the child is a ward of the court.
- D.** A licensee may release personally identifiable information about a child or family to persons who require the information to treat or provide services to the child unless the release is prohibited by law.
- E.** A consent to release shall include the following information:
- 1. The name of the person or agency to whom the information is to be released;
 - 2. A description of the information to be disclosed;
 - 3. The reason for disclosure;
 - 4. The expiration date of the consent, not to exceed 6 months from date of signature; and
 - 5. The dated signature of the person authorizing the release.
- F.** Notwithstanding any other provision of this Article, in a medical emergency, the licensee shall promptly release information from a child's record to persons who require the information to treat the child.
- G.** A licensee may withhold information if, in the judgment of the professional person treating the child, or the agency's program director, the release of information would be contrary to the child's best interests, unless the release is:
- 1. Ordered by a court,
 - 2. Mandated by federal or state law,
 - 3. Required by the licensee's agreement with the placing agency or person, or
 - 4. Required by the Department to assess the licensee's compliance with the law.
- H.** If a licensee withholds information pursuant to subsection (G), the licensee shall:
- 1. Document, in the child's record, the reason for withholding the information;
 - 2. Advise the person who requested the information that the person may grieve the withholding pursuant to the licensee's internal grievance process adopted in accordance with R6-5-7429.
- 5. All documents related to the child's referral and admission of the child to the facility;
 - 6. Documentation of the current custody and legal guardianship of the child;
 - 7. The child's court status, if applicable;
 - 8. Consent forms signed by the placing agency or person at the time of placement, allowing the licensee to authorize necessary medical care, medications, routine tests, and immunizations;
 - 9. Service plans and all reviews, revisions, notes, and updates reflecting the child's and family's goals, and progress towards achievement of goals;
 - 10. A plan for permanent placement of the child;
 - 11. Education records and reports;
 - 12. Vocational training and employment records, if applicable;
 - 13. Treatment and clinical records and reports; and
 - 14. The discharge summary required by R6-5-7442(B).
- B.** A licensee shall have the medical records required by R6-5-7455. While the child is in care, the licensee may keep the child's medical records in a location separate from the records described in this Section. If the licensee keeps medical records in a separate location, the child's main record shall identify the location of the medical record.
- C.** All record entries shall be made in permanent ink or electronically. The licensee shall require personnel to date and legibly sign entries in a child's records.
- D.** If a licensee maintains a child's records in more than 1 place, the licensee shall:
- 1. Identify, in 1 location that is readily accessible to inspection by the Licensing Authority, the location of all parts of the record; and
 - 2. Consolidate all records and notes into 1 case file, at 1 location, within 15 days following either:
 - a. A request for consolidation from the Licensing Authority; or
 - b. The date of the child's discharge from the facility.
- E.** A licensee shall maintain a child's record for the longest of the following time periods:
- 1. At least 5 years after the child's last discharge from the licensee's care;
 - 2. At least 3 years after the child's 18th birthday; or
 - 3. Another time period specified by applicable law or contract.
- F.** A licensee shall dispose of expired records in a manner that maintains confidentiality.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7428. Children's Records: Contents, Maintenance, Destruction

- A.** A licensee shall maintain a current, separate case record for each child in care. The record shall be readily accessible to persons providing services to the child and shall include at least the following information:
- 1. The name, gender, race, religion, birthdate, and birthplace of the child;
 - 2. The name, address, telephone number, and marital status of the child's parents;
 - 3. The date of admission and source of referral;
 - 4. The name, address, telephone number, and relationship to the child of the person with whom the child was living prior to admission, if other than the child's parent;

R6-5-7429. Grievances

- A.** A licensee shall have a written policy and written procedures governing the receipt, consideration, and resolution of grievances brought to the licensee by children in care and their parents, regarding the licensee's program and care of children. The procedures shall:
- 1. Be written in a clear and simple manner that is developmentally appropriate for children in care;
 - 2. Prohibit reprisal or retaliation against an individual who brings a grievance for the act of bringing the grievance;
 - 3. Describe a process for fair and expeditious resolution of a grievance; and
 - 4. Provide a means to tell the grievant about the action taken in response to the grievance.
- C.** A licensee shall maintain written records of grievance decisions for at least 12 months after the resolution.

- D.** The licensee shall maintain a log of grievances filed against the licensee. The licensee may keep a centralized agency log, or can maintain a separate log for each facility. The log shall include the following information:
1. Name of grievant;
 2. Date grievance filed;
 3. Description of the substance of the grievance;
 4. Summary of the grievance resolution;
 5. A copy of the grievance decision required by subsection (C), or a description of where the Licensing Authority can find the decision.
- E.** Copies of the grievance decisions may serve as the grievance log if:
1. The copies are kept in 1 central location that is readily accessible to the Licensing Authority,
 2. The grievance decisions contain all the information listed in subsection (D), and
 3. The licensee retains the decisions for at least 3 years following the date of grievance resolution.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7430. Staff Management and Staff Records

- A.** A licensee shall have written staff policies and procedures which shall describe:
1. How the licensee recruits, screens, hires, supervises, trains, retains, develops, evaluates, disciplines, and terminates staff;
 2. How the licensee handles staff resignations;
 3. A job title, description and minimum qualifications for each position within the agency and all facilities;
 4. The duties assigned to each position;
 5. How the licensee handles staff grievances;
 6. An organizational chart for the agency and all facilities; and
 7. A method to assure privacy of staff records.
- B.** The licensee shall give all staff a copy of the person's own job description and allow staff access to the licensee's staff policies and procedures.
- C.** A licensee shall maintain a personnel record for all paid staff. The record shall include the following information, if applicable:
1. Application for employment including previous employment history and educational background;
 2. Reference letters and documentation of phone notes on references that are dated and signed;
 3. Documentation of the highest level of education achieved; the documentation may include a copy of a diploma, equivalence certificate, or record of notes of calls to educational institutions;
 4. Medical examination reports on paid staff as required by R6-5-7431(F);
 5. Medical examination reports on any other adult residing at the facility showing that the adult is free from communicable diseases as required by R6-5-7431(H);
 6. Medical and immunization records on children who reside at the facility but are not in care, as required by R6-5-7431(H);
 7. Copies of applicable professional licenses, credentials, and certifications, as required by R6-5-7431(A);
 8. Documentation of fingerprinting and criminal records clearance as required by A.R.S. § 46-141 and R6-5-7431(B);
 9. Record of all orientation and training received during employment;
 10. Documentation showing that the paid staff member has read and agrees to abide by the facility's behavior management policies and procedures which shall include the dated signature of the paid staff member and a witness;
 11. Documentation showing that the paid staff member has a valid driver's license if the paid staff member transports children;
 12. Reports of all performance evaluations;
 13. Documentation of any personnel actions or investigations that result in a written report;
 14. Dates the paid staff member started and separated from employment; and
 15. Reason for separation from employment.
- D.** A licensee shall maintain a personnel record on unpaid staff. The record shall include the following information, if applicable:
1. Application for work or study, including previous employment history and educational background;
 2. Reference letters and documentation of phone notes on references that are dated and signed;
 3. Medical examination reports, as required by R6-5-7431(F);
 4. Copies of applicable professional licenses, credentials, and certifications, as required by R6-5-7431(A);
 5. Documentation of fingerprinting and criminal records clearance as required by A.R.S. § 46-141 and R6-5-7431(B);
 6. Record of all orientation and training received while affiliated with the licensee;
 7. Documentation showing that the person has read and agrees to abide by the facility's behavior management policies and procedures which shall include the dated signature of the person and a witness;
 8. Documentation showing that the person has a valid driver's license if the person transports children;
 9. Reports of all performance evaluations;
 10. Documentation of any personnel actions or investigations that result in a written report;
 11. Dates the person began and ended affiliation with the licensee; and
 12. Reason for ending affiliation with the licensee.
- E.** The licensee shall keep personnel records for at least 3 years after the staff member's separation from the licensee.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7431. General Qualifications for Staff

- A.** A licensee shall ensure that all staff providing services to children and their families under the licensee's program are currently certified, registered, or licensed as required by state law.
- B.** As prescribed in A.R.S. § 46-141, all staff having direct contact with children, and any persons age 18 or older who live at a facility, excluding children in care, shall be fingerprinted and shall certify on notarized forms provided by the Department whether they:
1. Are awaiting trial on or have ever been convicted of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
 - a. Sexual abuse of a minor;
 - b. Incest;
 - c. First or 2nd degree murder;
 - d. Kidnapping;
 - e. Arson;
 - f. Sexual assault;
 - g. Sexual exploitation of a minor;

- h. Contributing to the delinquency of a minor;
 - i. Commercial sexual exploitation of a minor;
 - j. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs;
 - k. Burglary;
 - l. Robbery;
 - m. A dangerous crime against children as defined in A.R.S. § 13-604.01;
 - n. Child abuse;
 - o. Sexual conduct with a minor;
 - p. Molestation of a child;
 - q. Manslaughter;
 - r. Aggravated assault; and
2. Have ever committed any of the acts listed in subsections (B)(1)(a), (g), (i), (m), (n), (o), and (p).
- C.** A licensee shall not knowingly employ, retain, or allow to reside at a facility, any staff, or person age 18 or above, who is awaiting trial on or has been convicted of any of the criminal offenses listed in subsection (B), or the same or similar offenses in another state or jurisdiction. A licensee shall not knowingly allow a person who has committed any of the offenses listed in subsection (B)(2) to have contact with children in care.
- D.** For all staff, a licensee shall:
- 1. Verify at least 2 years immediate, or most recent, past employment through reference checks;
 - 2. Obtain at least 3 references from persons not related to the staff member by blood or marriage, who can attest to the staff member's character, knowledge, and skill.
- E.** The licensee shall document verification of the reference information required in subsection (D).
- F.** A licensee shall have staff providing direct care to children obtain a physical examination by a licensed medical practitioner before beginning assigned duties and at least every 2 years while working.
- G.** All staff shall be free from any communicable disease that poses a danger to children in care and shall have the capacity to perform the essential functions of that person's job.
- H.** Other adults who reside at the facility shall be free from communicable disease that poses a danger to children in care. Children who reside at the facility but are not in care shall have current immunizations and be free from communicable disease that poses a danger to children in care.
- Historical Note**
- Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).
- R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions**
- A.** Chief Executive Officer "CEO": A licensee shall have a chief executive officer for the agency. The CEO:
- 1. Is responsible for general management, administration, and operation of the agency in accordance with this Article;
 - 2. Ensures that:
 - a. Each child in care receives necessary professional services;
 - b. Appropriately qualified staff render services to children in care; and
 - c. The services are coordinated;
 - 3. Shall have management experience and meet any other qualifications prescribed by the Governing Body;
 - 4. Shall reside in Arizona;
 - 5. Shall be accessible to staff, representatives of the Licensing Authority, and other governmental agencies; as used in this subsection, "accessible" means readily available to answer questions and to handle problems or emergencies that arise, either personally or through a chain of command; and
6. Shall designate a qualified person to perform administrative responsibilities whenever the CEO is inaccessible.
- B.** Program Director: A licensee shall have at least 1 person who is responsible for development, implementation, and supervision of an agency's programs and services. This person shall have at least:
- 1. A master's degree in social work or a related area of study from an accredited school and at least 1 year experience in the child welfare or child care services field; or
 - 2. A bachelor's degree in social work or a related area of study from an accredited school and 2 years of experience in the child welfare or child care services field.
- C.** Facility Supervisor: If a licensee operates more than 1 facility, the licensee shall designate a person to supervise the operations of each facility.
- D.** Supervisors: Any staff member who supervises, evaluates or monitors the work of the direct care staff shall:
- 1. Have at least 6 months paid child care experience and at least 3½ years of any combination of the following:
 - a. Paid child care or related experience; or
 - b. Post-high school education in social work or a related field; or
 - 2. Be certified by the Arizona Professional Youth Care Association, the National Organization of Child Care Workers Association, or an equivalent organization.
- E.** Direct Care Staff: A person who supervises, nurtures, or cares for a child in care shall have at least:
- 1. A high school diploma or equivalency degree and 1 year experience in working with children; or
 - 2. One year post-high school education in a program leading to a degree in the field of child welfare or human services.
- F.** Program Instructors: A person who supervises, trains, or teaches children in the performance of a physical activity that poses an unusually high risk of harm, such as archery, river rafting, rock climbing, caving, rappelling, and hang gliding, shall:
- 1. Be currently certified to perform the activity, if applicable;
 - 2. Have at least 3 years of experience related to the activity; or
 - 3. Have at least 3 letters of reference attesting to skill and experience in the activity.
- G.** CPR and First Aid Certification: A licensee shall ensure that:
- 1. Direct care staff are certified in pediatric cardiopulmonary resuscitation (CPR) and in first aid by the American Red Cross, the American Heart Association, or the Arizona Chapter of the National Safety Council within 3 months of being hired and before caring alone for children in care.
 - 2. At least 1 staff member per shift, per facility is currently certified in CPR and first aid.
- H.** Multiple Functions: A licensee may allow 1 person to perform multiple functions or fill more than 1 position so long as:
- 1. The person performing multiple functions is qualified for the jobs held; and
 - 2. The licensee does not violate the requirements of this Article, including R6-5-7437 governing staff-child ratios.
- I.** Exclusions: The educational requirements set forth in this Section do not apply to persons employed with a licensee on the effective date of this Article. These requirements do apply to:
- 1. Persons hired as employees after the effective date of this Article; and

2. Persons who:
 - a. Are employed with a licensee on the effective date of this Article;
 - b. Subsequently separate from that employment; and
 - c. Later seek employment with the same or a different licensee.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7433. Orientation and Training for Staff

- A. A licensee shall have a written plan for orientation and training of all staff. The plan shall include a method for the licensee to evaluate whether the person has actually learned the information that was the subject of orientation or training.
- B. All staff shall receive initial orientation and training before assignment to solo supervision of children. The initial orientation and training shall include:
 1. Acquainting staff with the licensee's philosophy, organization, program, practices, and goals;
 2. Familiarizing staff with the licensee's policies and procedures, including those on confidentiality, client and family rights, grievances, emergencies and evacuations, behavior management, preventing and reporting child maltreatment, record-keeping, medications, infection control, and treatment philosophy;
 3. Training staff in cardiopulmonary resuscitation (CPR) and first aid according to American Red Cross guidelines as prescribed in R6-5-7432(F);
 4. Training staff to do the initial health screening prescribed in R6-5-7438(E)(9); the licensee shall have a licensed medical practitioner provide this training;
 5. Training staff in de-escalation and any physical restraint practices used at the facility;
 6. Familiarizing staff with the specific child care responsibilities outlined in the person's job description;
 7. Training staff to recognize expected responses to and side effects of medications commonly prescribed for children in care; and
 8. Training staff in the licensee's emergency admissions process if applicable to the licensee's services.
- C. The licensee's training plan for ongoing training shall satisfy the requirements of this subsection.
 1. A full-time support staff member shall receive at least 4 hours of annual training.
 2. A full-time direct care staff member shall receive at least 24 hours of annual training.
 3. The training shall cover matters related to the person's job responsibilities, and at least the following subjects, as appropriate to the characteristics of the children in care at the facility:
 - a. Child management techniques;
 - b. Discipline, crisis intervention, and behavior management techniques;
 - c. A review of the licensee's policies;
 - d. Health care issues and procedures;
 - e. Maintenance of current certification in CPR and first aid;
 - f. Attachment and separation issues for children and families;
 - g. Sensitivity towards and skills related to cultural and ethnic differences;
 - h. Self-awareness, values, and professional ethics; and
 - i. Children's need for permanency and how the agency works to fulfill this need.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7434. Notification of Unusual Incidents and Other Occurrences

- A. A licensee shall make a record of any unusual incident on an incident reporting form which shall include the following information:
 1. Location of the unusual incident;
 2. Name and address of any child involved in or observing the incident;
 3. Name of the agency if different from the facility;
 4. Name, title, and address of any staff involved in or observing the incident;
 5. Name and address of any other person involved in or observing the incident;
 6. Date of the incident;
 7. Time of the incident;
 8. Description of the incident; and
 9. Licensee's response to the incident.
- B. The licensee shall maintain a record of all unusual incidents occurring at the facility in a separate log or place, which shall permit the Licensing Authority to easily locate the incident reporting form if the licensee maintains the form in a location separate from the log.
- C. When a child in care dies, the licensee shall notify the child's placing agency or person, and the Licensing Authority within 2 hours of knowledge of the death.
- D. When a child in care suffers a serious illness, serious injury, or a severe psychiatric episode requiring hospitalization, the licensee shall notify the child's placing agency or person within 24 hours of knowledge of the occurrence.
- E. A licensee shall comply with the statutory obligation to report child maltreatment, as prescribed in A.R.S. § 13-3620.
- F. A licensee shall comply with any reporting requirements set forth in the licensee's contracts with placing agencies or persons.
- G. No later than 5 p.m. on the next business day, the licensee shall notify the Licensing Authority when any of the following occurs:
 1. Fire or a natural disaster affecting the licensee;
 2. Law enforcement involvement in which a formal complaint is filed by or against the licensee, but excluding incidents of children cited solely for absence without leave from the facility;
 3. Any incident of alleged child maltreatment of a child in care;
 4. When a child in care or any other person suffers any injury from use of restrictive behavior management, and which requires treatment by a licensed medical practitioner;
 5. When a child in care suffers any physical injury from an incident involving another child in care and requires treatment by a licensed medical practitioner;
 6. When a child in care suffers an injury or psychiatric episode that is severe enough to require hospitalization or external medical intervention for the child; and
 7. When a child in care requires external emergency services including a suicide watch.
- H. Within 5 calendar days, a licensee shall give the Licensing Authority written documentation of an event listed in subsection (G) above. The documentation shall contain at least the information required by subsection (A), and may be a copy of the licensee's unusual incident reporting form.

- I.** If a child in care dies, a licensee shall notify the local law enforcement authority and cooperate in any arrangements for examination, autopsy, and burial.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7435. Investigations of Child Maltreatment

- A.** A licensee shall have written procedures for handling alleged and suspected incidents of child maltreatment, including at least the following provisions:
1. Reporting suspected incidents of maltreatment to law enforcement or Child Protective Services as required by A.R.S. § 13-3620;
 2. Notifying the Licensing Authority, and notifying the child's placing agency or person if so requested;
 3. Taking precautions to prevent further risk to the child who allegedly suffered the maltreatment and potential risk to other children in care;
 4. Evaluating the retention of any staff who commit or allow child maltreatment; and
 5. If the licensee internally investigates incidents, conducting the internal investigation.
- B.** A licensee shall require all staff to read and sign a statement describing the duty to report child maltreatment as prescribed in A.R.S. § 13-3620.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7436. Runaways and Missing Children

A licensee shall have a written policy and procedures for handling runaways and missing children. The policy shall include at least the following:

1. Procedures for making staff who provide services to a child with a history of or potential for running away, aware of that child's history or potential;
2. Procedures for immediately notifying the designated administrator of the child's facility or that person's designee when a child is discovered to be missing;
3. Procedures for notifying the local law enforcement agency, the child's placing agency or person, and others as necessary;
4. Procedures to prevent runaways; and
5. Procedures for submitting a written report to the child's placing agency or person within 5 days or the time specified in the placement agreement.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7437. Staff Coverage; Staff-child Ratios

- A.** A licensee shall have a written plan describing the staffing for each facility, for 24 hours per day, 7 days per week. The staffing plan shall explain:
1. How staff coverage is assured:
 - a. When assigned staff are absent due to illness, vacation, or other leaves of absence; and
 - b. During emergencies when only 1 staff member is on duty; and
 2. The methods the licensee uses to assure adequate communication and support among staff to provide continuity of services to children.
- B.** A licensee shall also have a written staffing schedule for each facility shift; the schedule shall document the staff actually on

duty during each shift. The licensee shall retain the schedules in 1 designated location for at least 2 years.

- C.** A licensee shall have at least the paid staff to child ratios prescribed in this subsection.

1. Age 12 and above:
 - a. At least 1 paid staff member for each 10 children when children are under the licensee's direct supervision and awake.
 - b. During sleep hours, at least 1 paid staff member in each building where children in care are sleeping.
2. Age 6 through 11:
 - a. At least 1 paid staff member for each 8 children when children are under the licensee's direct supervision and awake.
 - b. During sleep hours, at least 1 paid staff member in each building where children in care are sleeping.
3. Age 3 through 5:
 - a. At least 1 paid staff member for each 6 children when children are under the licensee's direct supervision and awake.
 - b. At least 1 paid staff member in each building where children in care are sleeping.
4. Under age 3:
 - a. At least 1 paid staff member for each 5 children when children are under the licensee's direct supervision and awake.
 - b. At least 1 paid staff member for each 6 children when children are sleeping.
5. Nonambulatory children, under age 6: At least 1 paid staff member for each 4 children at all times.

- D.** For the purpose of the paid staff-child ratios set forth in subsection (C) above,

1. Students and volunteers do not count as staff;
2. A child who is not in care but who lives at the facility is counted as a child; and
3. Any paid staff member counted in the ratio must be someone who is qualified to provide direct child care as prescribed in R6-5-7432(E).

- E.** A licensee shall not fall below the minimum paid staff-child ratios specified in subsection (C), and shall, notwithstanding those ratios, have paid staff:

1. Sufficient to care for children as prescribed in this Article and in the licensee's own program description, statement of purpose, and policies;
2. Which take into account the following factors:
 - a. The ages, capabilities, developmental levels, and service plans of the children in care;
 - b. The time of day and the size and nature of the facility; and
 - c. The facility's history and the frequency and severity of unusual incidents, including runaways, sexual acting-out behavior, disciplinary problems, and injuries.

- F.** A licensee shall have sufficient numbers of qualified staff to perform the fiscal, clerical, food service, housekeeping, and maintenance functions prescribed in this Article and in the licensee's own policies.

- G.** A licensee shall make a good faith effort to employ staff who reflect the cultural and ethnic characteristics of the children in care.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7438. Admission and Intake; Criteria; Process; Restrictions**A. Admissions:** A licensee shall have a written admissions policy, which shall:

1. Describe the licensee's admission criteria, including:
 - a. Population to be served, including age range, gender, physical development, social behavior, and custody and guardianship status;
 - b. Geographic area of service;
 - c. The needs, problems, and child-related issues best served at the licensee's facility; and
 - d. The method used to assign a child to a particular living unit;
2. Contain an acknowledgment that the licensee abides by the Interstate Compact on the Placement of Children, the Indian Child Welfare Act, and the Interstate Compact on Juveniles; and
3. Provide that the licensee shall not refuse admission to any child on the grounds of race, religion, or ethnic origin.

B. Age Limit; Continuing Care for Persons in High School: A licensee shall not admit a person who is age 18 or older, except a licensee may continue to care for an individual under age 22 who was a child in care and turned age 18 while in care, as long as the individual is currently enrolled in and regularly attending a high school program or vocational training program. A licensee shall not allow an individual to remain in care after the individual receives a high school degree or certificate of equivalency, or completes the vocational training program.**C. Admissions Outside of Criteria:** A licensee shall not accept a child who is not within the licensee's admission criteria unless:

1. The placing agency or person specifically authorizes the admission after reviewing the agency's program description;
2. The admission is consistent with the terms of the agency's license and will not result in a violation of this Article; and
3. The child's individual service plan explains:
 - a. The reasons for acceptance, and
 - b. How the facility will meet the child's needs.

D. Intake Assessment:

1. A licensee shall not accept a child into care unless:
 - a. The child has a current intake assessment covering the child's social, health, educational, legal, family, behavioral, psychological, and developmental history; or
 - b. The licensee completes such an assessment within 7 days following the child's admission.
2. In this subsection, "current" means within the 6 months prior to admission.

E. Admission and Intake Process and Requirements: The licensee shall have a written policy and procedures describing the process and requirements for both regular and emergency admissions and intake. The policy shall include the provisions listed in this subsection.

1. The licensee shall have a method to allow a child to participate in admission and intake decisions, including selection of a living unit, if developmentally appropriate and consistent with the licensee's program.
2. The licensee shall provide the placing agency or person with a reasonable opportunity to participate in admission and intake decisions.
3. Except for emergency admissions as prescribed in subsection (F), the licensee shall not admit a child unless the licensee has, at the time of or prior to admission:

- a. A written agreement with the child's placing agency;
- b. A court order; or
- c. The written consent of the child's custodial parent or guardian.

4. The licensee shall obtain any available medical information about the child before or at the time of the child's admission. The information may include:

- a. A report of a medical examination of the child performed within 45 days prior to admission;
- b. A report of a dental examination of the child performed within 6 months prior to admission; and
- c. The child's and family's medical history.

5. If the information described in subsection (D)(4) is not available, the licensee shall comply with the requirements of R6-5-7452 to obtain an examination.

6. At the time of or prior to admission, the licensee shall obtain written consent from the child's placing agency or person for the licensee to authorize routine medical and dental procedures for the child.

7. If a child is taking medication at the time of admission, the licensee shall:

- a. If the medication is in its original container, labeled by the dispensing pharmacist with a fill date, prescribing physician, and instructions for administration, document the receipt of the medication as prescribed in subsection (E)(7)(c); or
- b. If the medication is not in its original container, or if the container is not labeled as described in subsection (E)(7)(a), contact the prescribing physician to verify the medication administration schedule and reason for the medication; and
- c. Document the contact in the child's medical record required by R6-5-7455 and the medication administration schedule as prescribed in R6-5-7453(B).

8. A licensee shall not refill a prescription that a child brings at admission without having a licensed medical practitioner determine the child's need for the medication and documenting the need as prescribed in subsection (E)(7)(c).

9. Within 24 hours of a child's admission, a direct care staff member who has the training prescribed in R6-5-7433(B)(4), or a licensed medical practitioner, shall assess the child's general health, by:

- a. Looking at the child for signs of obvious physical injury and symptoms of disease or illness;
- b. Assessing the child for evidence of apparent vision and hearing problems; and
- c. Documenting any conditions or problems and referring the child for immediate or further assessment or treatment, if indicated.

F. Emergency Admissions: In an emergency situation requiring immediate placement, a licensee shall:

1. Gather as much information as possible about the child and the circumstances requiring placement;
2. Record this information in the child's record, within 2 days of admission, as an emergency admission notation; and
3. Keep an emergency admission record, which shall include at least the following information about the child:
 - a. Physical health,
 - b. Family history,
 - c. Educational background,
 - d. Legal status, and
 - e. A statement explaining the need for care.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7439. Information and Services Provided to the Placing Agency or Person

- A.** No later than the date of a child's admission, a licensee shall provide information about the following subjects to the placing agency or person.
1. The licensee's statement of purpose and program description prescribed in R6-5-7423(A) and (B);
 2. Daily routines at the facility where the child is or will be placed;
 3. The behavior management policies and procedures prescribed in R6-5-7456;
 4. Services and treatment strategies provided or used at the facility;
 5. The visitation and communications policy prescribed by R6-5-7448;
 6. The education program or method for providing a child with education;
 7. Any religious practices observed by the licensee or religious observances required of children.
- B.** The licensee may provide the information in summary form or orally, but shall:
1. Convey the information in a language or form that the placing agency or person can understand;
 2. Advise the placing agency or person that the licensee will provide a copy of the licensee's policies or procedures, upon request.
 3. Provide the name and telephone number of a staff person that the placing agency or person may contact to obtain information about the program, facility, or child.
- C.** The licensee shall provide the placing agency or person with a copy of the licensee's grievance procedures required by R6-5-7429 and the statement of client rights required by R6-5-7423(C).
- D.** The licensee shall obtain the dated signature of the placing agency or person indicating receipt of the information listed in subsections (A) through (C).
- E.** Before obtaining the signature of a child's parent or guardian on a contract, consent, or release, the licensee shall explain the contents of the documents.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7440. Orientation Process for a Child In Care

- A.** A licensee shall provide a child admitted into care with the orientation described in this Section in a language and manner that the child can understand and to the extent developmentally appropriate to the child.
- B.** During the 1st full day of a child's placement, a licensee shall:
1. Explain the facility's emergency procedures,
 2. Show the child where emergency exits are located,
 3. Take the child on a tour of the facility, and
 4. Introduce the child to staff and other residents.
- C.** During the 1st week following a child's admission and as part of each child's orientation, a licensee shall:
1. Familiarize the child with the licensee's program;
 2. Explain the licensee's expectations and requirements for behavior;
 3. Explain the criteria for successful participation in and completion of or emancipation from the program;
 4. Make available a copy of the behavioral rules prescribed by R6-5-7456(A)(3) (a), (b), (c), (d), and (h);

5. Make available a copy of the visitation and communication policy prescribed by R6-5-7448; and
 6. Describe and, upon request, make available a copy of the grievance procedures prescribed by R6-5-7429 and the statement of client rights prescribed by R6-5-7423(E).
- D.** The licensee shall document the orientation and other information given to a child in the child's case record.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7441. Child's Service Plan: Preparation; Review; Planning Participants

- A.** Service Plan Contents: A child in care shall have a personalized service plan tailored to the child's unique background, needs, strengths, weaknesses, and problems. The plan shall include at least the following information:
1. A description of services the child is to receive while in care, including services to ready the child for discharge or emancipation from the program;
 2. Goals and objectives for the child;
 3. Timelines for achieving each goal and objective;
 4. Recommendations for any after-care;
 5. Identification of persons invited to participate in service planning;
 6. The names and, if available, signatures of the persons who participated in service planning;
 7. Identification of persons responsible for implementing the service plan, with an explanation of each person's role; and
- B.** Timing for Plan Development and Review:
1. If a child has an existing service plan at the time of admission, the licensee shall:
 - a. Review the plan before or at the time of the child's admission, and
 - b. Assess the existing plan and make any necessary changes to conform to the requirements of this Section.
 2. If a child does not have a service plan at the time of admission, the licensee shall initiate service planning at the time of admission.
 3. Within 7 days of a child's admission, a licensee shall document all interim planning efforts identifying the child's needs and initial plans for service.
 4. No later than 30 days after the child's admission to a facility, the licensee shall complete the child's initial service plan and any initial modifications to an existing plan.
- C.** Plan Review: The licensee shall review and update a child's service plan at least every 90 days following completion of the child's service plan described in subsection (B)(4).
- D.** Planning Participants:
1. The licensee shall invite, or delegate the responsibility for inviting, at least the following persons to participate in development of the service plan and periodic review:
 - a. A representative of the facility;
 - b. A representative of the placing agency, if applicable;
 - c. The child, if the child's presence is developmentally appropriate; and
 - d. The child's parent or guardian.
 2. At least 1 participant on the service team shall have the qualifications listed in R6-5-7432(B)(1) or (2).
- E.** Methods of Participation: The licensee shall allow service team members to participate in service planning through the following methods:
1. Attendance at a planning meeting,
 2. Submission of a written report or documentation,

3. Review and approval of the plan through signing and dating, or
4. Audio or audio-visual teleconference.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7442. Discharge; Discharge Summary

- A.** Policy and Procedure: A licensee shall have written policy and procedures for planned and unplanned discharges of children.
 1. Before a child's planned discharge, the licensee shall explain the discharge plan to the child and help the child understand the plan.
 2. The licensee shall also explain the discharge plan to the person removing the child.
 3. Before discharging a child to another out-of-home placement, the licensee shall make a reasonable effort to:
 - a. Arrange for the service team to meet or communicate with a representative from the new placement to share information about the child; and
 - b. Arrange for the child to visit the new placement.
- B.** Discharge Summary: Within 15 days of the date a child is discharged, the licensee shall complete a written discharge summary which shall include the following information:
 1. The name, address, telephone number, and relationship of the person to whom the child was discharged;
 2. The planned and actual discharge dates;
 3. A summary of the contacts between the licensee and the facility or person to whom the child was discharged about the child's pending discharge;
 4. A summary of services provided during care;
 5. A list of medication provided during care, with a summary of the reasons for prescribing the medication and any outcomes of the medication;
 6. A summary of progress toward service plan goals;
 7. An assessment of the child's unmet needs and alternative services which might meet those needs;
 8. Any after-care plan and identification of any person or agency responsible for follow-up services and after-care; and
 9. For an unplanned discharge, a description of the circumstances surrounding the unplanned discharge, including the licensee's actions.
- C.** Notice of Unplanned Discharge: When a child's placing agency or person has not participated in the decision to discharge the child, the licensee shall notify the placing agency or person within 1 hour of discharge, or document attempts at notification.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7443. Personal Care of Children

- A.** A licensee shall provide children in care with:
 1. Developmentally appropriate supervision, assistance, and instruction in, good habits of personal care and hygiene and culturally appropriate grooming;
 2. Necessary toiletry items; and
 3. The opportunity to have a daily shower or tub bath in private, as developmentally appropriate, or as otherwise prescribed in program policy.
- B.** A licensee shall not allow community use of grooming and hygiene articles such as towels, toothbrushes, soap, hairbrushes, and deodorants.

- C.** If a licensee restricts personal care or grooming practices, the licensee shall have a policy describing the restrictions and the reasons for the restrictions.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7444. Children's Clothing and Personal Belongings

- A.** A child may bring clothing and personal belongings to the facility and acquire belongings while in care, in accordance with the child's service plan and the facility's policy.
- B.** If a licensee limits a child's right to have, wear, or display certain clothes or personal belongings, the licensee shall:
 1. Have a written policy explaining the limitations and the reasons for the limitations; and
 2. Explain the limitations to the child in a form and manner that the child can understand.
- C.** When a child is admitted, the licensee shall inventory the child's clothing and personal belongings; the licensee shall provide a copy of the inventory to the placing agency or person and keep a copy in the child's file.
- D.** The licensee shall either store any restricted possessions or return the possessions to the child's placing agency or person.
- E.** The licensee shall ensure that each child has a personal supply of clean and seasonable clothing as required for health, comfort, and physical well-being and as appropriate to the child's age, gender, size, and individual needs.
- F.** The licensee shall allow a child to help select his or her own clothing when developmentally appropriate and allowed by programmatic requirements.
- G.** The licensee shall have a policy governing retention, return, and disposal of the clothes and personal belongings of a child who has had an unplanned discharge. At the time of a child's planned discharge, the licensee shall allow the child to take clothing and personal belongings.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7445. Children's Money; Restitution

The licensee shall provide opportunities for children to develop a sense of the value of money through allowances, earnings, spending, giving, and saving. Any practices regarding children's money shall comply with this Section.

1. The licensee shall have a written policy regarding allowances.
2. The licensee shall treat a child's money as that child's personal property.
3. The licensee may limit the amount of money to which a child may have access when the limitations are:
 - a. In the child's best interest and explained in the child's service plan; or
 - b. In accordance with the facility's program description.
4. The licensee shall not deduct sums from a child's allowance as restitution for damages caused by the child unless:
 - a. The licensee has discussed restitution with the child; and
 - b. The deduction is:
 - i. Reasonable in amount,
 - ii. Consistent with the child's ability to pay,
 - iii. In accordance with the licensee's policy, and
 - iv. Explained in the child's service plan.
5. The licensee shall maintain individual accounting records for the money of each child.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7446. Nutrition, Menus, and Food Service

- A. A licensee shall have a written, dated menu of planned meals. The menu shall be available at the facility at least 1 week before meals are served. The licensee shall post the weekly menu in the dining area or in a location where children may review it. The licensee shall keep a copy of the menu and any menu substitutions on file for 1 year.
- B. A registered nutritionist or dietitian shall either prepare or approve the licensee's menus. The licensee shall maintain a record of any approvals for 1 year, and keep the record in a central location at the agency or facility.
- C. A licensee shall develop a specialized menu for a child with special nutritional needs. The licensee shall make special menus available to nutritional staff, but shall not post special menus in an area which is readily seen by other children in care.
- D. Menus shall reflect the religious, ethnic, and cultural differences of children in care.
- E. When developmentally appropriate, a licensee shall allow children to make menu suggestions.
- F. A licensee shall provide each child with at least 3 meals daily, with no more than 14 hours between the evening and morning meals. Between meal snacks shall not replace regular meals.
- G. A licensee shall provide meal portions that are consistent with each child's caloric needs.
- H. A licensee shall serve children meals that are substantially the same as those served to staff unless special dietary needs require differences in diet.
- I. A licensee shall allow children to eat at a reasonable rate; unless otherwise prescribed in agency policy, staff shall encourage social interaction and conversation during meals.
- J. A licensee shall have potable water available at all times.
- K. Staff shall directly supervise children involved in food preparation.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7447. Sleeping Arrangements

A licensee shall comply with the sleeping arrangement provisions in this Section.

1. A child age 6 or older shall not share a bedroom with a child of the opposite gender.
2. A child shall not share a bedroom with an adult unless 1 of the conditions listed in this subsection is met.
 - a. The child is younger than age 3.
 - b. The child's service plan contains specific reasons and authorization from the placing agency or person for a shared bedroom.
 - c. The child has a temporary need for special adult care during sleeping hours and the need is documented in the child's service plan.
 - d. The child has regularly shared a bedroom with another child in the licensee's care; the other child has reached age 18; and the placing agency and licensee agree that continuing the shared arrangement is in the best interests of both the child and the adult.
 - e. The child is sharing a room with his or her mother.
 - f. The sleeping area at the facility is a barracks which has been approved as described in R6-5-7461(B) and R6-5-7462(B), and a paid staff member sleeps in the same room to supervise the children in care.

3. Only children age 8 or older may sleep on the upper bed of a bunk bed.
4. If a child has a documented record of behavior that poses a risk to other children in care, the licensee, in consultation with the placing agency or person, shall develop special sleeping arrangements for that child, to minimize the risk of harm to other children. The licensee shall document the arrangements in the child's service plan.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7448. Visitation, Outings, Mail, and Telephones

- A. The licensee shall have a written policy and procedures regarding visitation, mail, telephone calls, and other forms of communication between children and family, friends, and other persons. The policy and procedures shall conform to the requirements of this Section.
 1. The licensee shall allow a child reasonable privacy during a visit unless the child's service plan requires supervised visitation.
 2. A licensee shall have facility visiting hours which meet the needs of the children and their parents.
 3. A licensee shall not deny, monitor, or restrict a child's communication with the child's social worker, attorney, Court Appointed Special Advocate, guardian ad litem, or clergy. The licensee may establish a schedule and rules for communication to prohibit undue interference with programming.
 4. A licensee shall not deny, monitor, or restrict communications between a child and the child's parent, guardian, or friends except as prescribed:
 - a. By court order;
 - b. In the child's service plan, which shall contain specific treatment reasons for the restriction which shall be time limited; or
 - c. In the facility's policy and statement of purpose required by R6-5-7423.
 5. The licensee may require a child to open mail in the presence of staff in order to inspect the mail for contraband.
 6. When a licensee is monitoring a communication as allowed in subsection (A)(4) above, the licensee shall tell the parties to the communication about the monitoring.
- B. The licensee shall have written policy and procedures to govern situations when a child temporarily leaves the facility on a visit or outing with a person other than a staff member. The procedures shall include:
 1. A method for recording the child's location, the duration of the activity, and the anticipated and actual time of the child's return;
 2. The name, address, and telephone number of the person responsible for the child while the child is absent from the facility; and
 3. A procedure for action if a child fails to return.
- C. Subsection (B) does not apply to regularly scheduled trips to school.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7449. Educational and Vocational Services; Work Assignments

- A. The licensee shall have a written policy regarding its educational program or a plan for ensuring that each child attends an educational program in accordance with state and local laws.

- B.** Within 10 local school days of a child's admission to a facility, the licensee shall arrange for the educational needs of the child. The arrangements shall:
 - 1. Meet the child's individual needs;
 - 2. Be consistent with the child's Individual Education Plan (I.E.P.) if applicable; and
 - 3. Comply with federal and state education laws.
- C.** The licensee shall communicate with staff at an educational program in which a child in care is enrolled to discuss the child's progress. At a minimum, the licensee shall attend scheduled parent-teacher conferences.
- D.** If a child's service plan provides for the child to receive vocational services, the licensee shall comply with the plan requirements.
- E.** The licensee shall provide children in care with:
 - 1. Space for quiet study;
 - 2. Developmentally appropriate supervision and assistance with homework; and
 - 3. Access to necessary reference materials.
- F.** The licensee may use work assignments to provide an instructional experience for children in care, but shall not use a child as an unpaid substitute for staff.
- G.** A work assignment shall be developmentally appropriate for a child, and scheduled at a time that does not interfere with other routine activities such as school, homework, sleep, and meals.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7450. Recreation, Leisure, Cultural Activities, and Community Interaction

- A.** A licensee shall have a written plan for making a variety of cultural, religious, indoor and outdoor recreational and leisure opportunities available for children in care. The plan shall:
 - 1. Reflect the interests and needs of the children in care, including an allotment of time for children to pursue individual interests, and time to address the special needs of the children in the living unit;
 - 2. Provide for use of community resources such as schools, museums, libraries, parks, recreational facilities, and places of worship; and
 - 3. Specify procedures for children's participation in community activities and use of community resources.
- B.** A licensee shall help children in care learn about the community in which the facility is located and use community resources, as developmentally appropriate.
- C.** A licensee shall arrange transportation and supervision so that children in care can attend community activities and maximize use of community resources.
- D.** The licensee shall make available recreational equipment that is suitable to the size, age, and developmental level of children in care.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7451. Religion, Culture, and Ethnic Heritage

- A.** A licensee shall have a written description of:
 - 1. Its religious orientation, if any;
 - 2. Any religious practices observed at a facility;
 - 3. Any restrictions on admission based on religion; and
 - 4. How the licensee provides opportunities for each child to participate in religious activities in accordance with the faith of the child or the child's parent or guardian.

- B.** A licensee's program and the service plans of children in care shall reflect consideration of and sensitivity to the racial, cultural, ethnic, and religious backgrounds of children in care.
- C.** A licensee may encourage children to participate in religious, cultural, and ethnic activities but shall not require children to participate unless otherwise provided in the licensee's statement of purpose and program description.
- D.** If a child asks to change religious affiliation while in care, the licensee shall obtain the written permission of the child's parent or guardian before assisting the child in making the change. A licensee is not required to obtain this permission if a child changes religious affiliation without the licensee's assistance.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7452. Medical and Health Care

- A.** General health care.
 - 1. A licensee shall have a written plan for meeting the preventive, routine, and emergency physical and mental health needs of children in care. The plan shall identify where and from whom children at a facility may obtain qualified health care, 24-hours per day, 7 days per week.
 - 2. A licensee shall ensure that children in care receive:
 - a. Preventive health services, including routine medical examinations and dental cleanings and examinations; and
 - b. The following health services, if necessary:
 - i. Evaluation and diagnosis,
 - ii. Treatment, and
 - iii. Consultation.
 - 3. A licensee shall ensure that a child in care receives a developmentally appropriate explanation of any health treatment the child receives, in a language and manner the child can understand.
 - 4. A licensee shall not ignore a child's complaints of pain or illness and shall document persistent complaints and any actions taken in response to the complaints.
- B.** Medical care.
 - 1. A licensee shall arrange for a physician, physician's assistant, or nurse practitioner to give a child a medical examination within 1 week of the child's admission unless:
 - a. A licensed medical practitioner examined the child within the 45 days preceding the child's admission; and
 - b. The licensee has a report of the examination as prescribed in R6-5-7438(E)(4)(a).
 - 2. A licensee shall also arrange for a child in care to receive an annual medical exam from a physician, physician's assistant, or nurse practitioner.
 - 3. The initial and annual medical examinations shall include:
 - a. Screening for communicable disease unless restricted by law;
 - b. Vision and hearing screening; and
 - c. For children who wish to participate in sports or physically strenuous activities such as backpacking, an evaluation of the child's capacity to participate.
 - 4. A licensee shall obtain a report of the examination, and, if applicable, a statement signed by the medical practitioner conducting the examination, or the practitioner's designee, regarding the child's capacity, fitness, and clearance to participate in sports or physically strenuous activities.

5. After attempting to determine a child's immunization history, a licensee shall arrange for the child to receive any routine immunizations and booster shots within 30 days of admission.

C. Dental care.

1. A licensee shall arrange for each child to have a dental examination within 60 days of admission unless the licensee is provided the written results of a dental examination conducted within 6 months prior to admission.
2. A licensee shall arrange for each child age 3 and older to receive a dental examination every 6 months.
3. In cooperation with the placing agency or person, a licensee shall arrange for a child to receive any prescribed dental care.

D. First aid. A licensee shall equip the residence of each living unit with at least the following first aid supplies:

1. Adhesive strip bandages;
2. Sterile, individually wrapped gauze squares;
3. Roller gauze;
4. Adhesive tape;
5. Individually wrapped non-stick sterile pads;
6. A triangular bandage to be used for a sling;
7. Disposable latex gloves;
8. A pair of scissors;
9. A pair of tweezers; and
10. A cardiopulmonary resuscitation mouth guard or mouth shield.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7453. Medications

- A.** A licensee shall have written policies and procedures governing medications. The policies and procedures shall specify:
1. The conditions under which medications can be prescribed and administered which shall be in accordance with any applicable laws;
 2. The qualifications of the persons allowed to administer medications;
 3. The qualifications of persons allowed to supervise self-administration of medication;
 4. How a facility will document the prescription and administration of medication, medication errors, and drug reactions; and
 5. How staff will notify a child's attending physician in cases of medication errors and drug reactions.
- B.** The licensee shall have a written medication schedule for each child who receives medication. The schedule shall include the following information:
1. Child's name;
 2. Name of the prescribing physician;
 3. Telephone number at which the prescribing physician can be reached in case of medical emergency;
 4. Reason for prescribing the medication;
 5. Date on which the medication was prescribed;
 6. Generic or commercial name of the medication;
 7. Dosage level and time of day when medication is to be administered, including any special administration instructions;
 8. The date, time, and dosage administered; and
 9. The signature of the person administering each dosage. If the medication is self-administered, the chart shall include the signature of the child and the person supervising the child's self-administration.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7454. Storage of Medications

A licensee shall store medications as prescribed in this Section.

1. Medications shall be kept in securely locked spaces that are not used for any other purpose and to which children do not have access.
2. All medications requiring refrigeration shall be stored separately from food items, in a locked container, in a refrigerator and under temperature ranges recommended by the manufacturer.
3. All prescription medication shall be kept in its original container which shall have a label with the following information:
 - a. Child's name;
 - b. Name of the medication;
 - c. Prescribing physician;
 - d. Date of purchase and, if known, expiration date; and
 - e. Directions for administering.
4. All over-the-counter medication shall be kept in its original container with the manufacturer's label.
5. At least once every 90 days, the licensee shall dispose of all:
 - a. Outdated medications;
 - b. Medications for children no longer at the facility; and
 - c. Medications specifically prescribed for an illness from which a child has recovered.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7455. Children's Medical and Dental Records

A licensee shall maintain health records for each child. The records shall include the information listed in this Section if available to the licensee.

1. The child's past medical history of:
 - a. Immunizations,
 - b. Serious illness or injuries,
 - c. Surgeries,
 - d. Known allergies, and
 - e. Adverse drug reactions.
2. Developmental history.
3. Medication history.
4. History of any alcohol or substance abuse and treatment.
5. Immunizations provided while in care.
6. Medications received while in care and a record of any medication errors.
7. Copies of consents for treatment or care.
8. Authorization to participate in sports or physically strenuous activities, if applicable.
9. Reports of vision and hearing screening and physical and dental examinations.
10. Record of any treatment provided for specific illness or medical emergencies, including the name and location of medical personnel who provided treatment.
11. The name of the person or agency bearing financial responsibility for the child's health care.
12. Documentation showing the licensee's efforts, consistent with the terms of the placing agreement, to obtain glasses, hearing aids, prosthetic devices, corrective physical or dental devices, or any other health equipment recommended by a child's attending physician.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7456. Behavior Management

- A.** A licensee shall have written behavior management policies and procedures which shall:
1. Be developmentally appropriate for the children in care;
 2. Be designed to encourage and support the development of self-control;
 3. Describe the following:
 - a. Behavior expectations of children;
 - b. Consequences for violations of the licensee's policies and rules which shall be:
 - i. Reasonably related to the violation; and
 - ii. Administered without prolonged and unreasonable delay;
 - c. Physical restraint and restrictive behavior management techniques used by the licensee;
 - d. The kinds of behaviors warranting use of physical restraints or restrictive behavior management techniques;
 - e. The licensee's methods of documenting use of physical restraints or restrictive behavior management techniques;
 - f. Behavior management techniques which require supervisory authorization or written documentation before being used;
 - g. The licensee's process for supervisory review to evaluate whether staff properly applied the restraints or techniques in a particular case; and
 - h. Behavior management techniques prohibited by the licensee.
- B.** The licensee's staff are responsible for control and discipline of children in care. The licensee shall not allow children to discipline other children.
- C.** The licensee shall not threaten a child or allow any child to be subjected to maltreatment, abuse, neglect, or cruel, unusual, or corporal punishment, including the following practices:
1. Spanking or paddling a child;
 2. All forms of physical violence inflicted in any manner upon the body;
 3. Verbal abuse, ridicule, or humiliation;
 4. Deprivation of shelter, bedding, food, water, clothing, sufficient sleep, or opportunity for toileting;
 5. Force-feeding, except as prescribed by a licensed medical practitioner;
 6. Placing a child in seclusion;
 7. Requiring a child to take a painfully uncomfortable position, such as squatting or bending for extended periods of time; and
 8. Administration of prescribed medication or medication dosage without specific physician authorization.
- D.** To determine whether a licensee has violated subsection (C)(7), the Licensing Authority shall consider all the circumstances at the time of the action, including the following:
1. The child's physical condition;
 2. Whether the child was taking any medications that may have affected the child's ability to perform the action, such as psychotropic medications or antibiotics;
 3. The climatic conditions under which the child was performing the action, such as intense heat or cold, rain, or snow;
 4. The level of force, if any, the licensee used to require the child to perform the activity and whether any use of force resulted in injury to the child; and

5. Whether the activity was consistent with the licensee's program description and procedures.
- E.** The behavior management practices listed in this subsection are restricted. A licensee may use a restricted practice only when the licensee satisfies the conditions listed in subsection (F) and any additional conditions listed in this subsection.
1. Required physical exercises such as running laps or performing push-ups, and assignment of physically strenuous activities, except:
 - a. As expressly prescribed in a child's service plan and as part of a regular physical conditioning program, or as part of a work experience that meets the requirements of R6-5-7449(F) and (G);
 - b. With documented clearance by a physician who is knowledgeable about the physical activities in which the child will participate; and
 - c. Within sight supervision of staff.
 2. Disciplinary measures taken against a group because of the individual behavior of a member of the group.
 3. Denial of visitation or communication with significant persons outside the facility solely as a consequence for inappropriate behavior.
 4. Use of a mechanical restraint unless:
 - a. The licensee's policy lists the qualifications of staff allowed to use the restraint;
 - b. Staff allowed to use the restraint have received training in the proper use of the restraint;
 - c. The licensee has documentation of the restraint training in the personnel file of the staff member;
 - d. Use of the restraint is authorized in a child's individual service plan; and
 - e. Staff have tried less restrictive measures which have failed.
 5. Physical restraint, except:
 - a. When the child needs restraint to prevent danger to the child or danger to another; and
 - b. After staff have tried less restrictive measures which have failed.
- F.** A licensee may use a restricted practice only when the practice and the circumstances warranting its use are:
1. Consistent with the licensee's program description and purpose;
 2. Described in the licensee's behavior management policy;
 3. Used as prescribed in this Section; and
 4. Not otherwise prohibited by these rules.
- G.** If a licensee cannot use a specific physical restraint or behavior management technique on a particular child, the child's service plan shall describe the restriction.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7457. Body Searches

If a licensee permits a body search of children in care, the licensee shall have a written policy describing the conditions warranting a body search and the procedures for conducting the search.

1. When searching a child, staff shall use the minimum amount of physical contact required to determine if the child has contraband.
2. The licensee shall not conduct an internal body cavity search on a child.
3. The licensee shall not use any instruments to search a child.
4. The licensee shall not conduct a strip search beyond underwear.

5. Unless a licensed medical practitioner is searching a child, a person of the same gender as the child shall do the search.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7458. Buildings; Grounds; and Water Supply

- A. Structures and Improvements: A licensee shall maintain a facility's structures and improvements in good repair, free from danger to health or safety, and as prescribed in this subsection. The licensee shall:
 1. Repair doors, windows and other building features that protect a building from weather damage or pest infestation, within 48 hours of finding that the building part is in disrepair;
 2. Document efforts to make or obtain repairs if repairs cannot be completed in 48 hours;
 3. Keep buildings free of vermin infestation;
 4. Keep exits free of obstruction or impediments to immediate use; and
 5. Have barriers appropriate to the developmental needs of children in care to prevent falls from porches and elevated areas, walkways, and stairs.
- B. Exits: The licensee shall equip each building used by children with exits as prescribed in this subsection.
 1. Each building shall have at least 2 exterior means of egress on each floor.
 2. Exits above ground level shall have an outside fire escape or a fire-resistant stairwell that has been approved by the state or a local fire inspector.
 3. Exit doors shall have only locks that allow the doors to be opened from the inside without use of a key or knowledge of special or restrictive operating procedures.
- C. Grounds: A licensee shall maintain a facility's grounds in good condition, free from danger to health or safety, and as prescribed in this subsection. The licensee shall:
 1. Store garbage and rubbish in non-combustible, covered containers, separate from play areas;
 2. Remove refuse and recyclables from the building at least once a day;
 3. Remove refuse and recyclables from the facility grounds at least once a week.
 4. Use safeguarding measures to separate children in care from potentially hazardous areas on or near the facility grounds;
 5. Maintain fences and other barriers in good repair; and
 6. Locate and install playground or recreational equipment at the facility in accordance with the manufacturer's instructions and recommendations, and maintain the equipment in good repair and in accordance with the manufacturer's instructions and recommendations.
- D. Water supply: If a facility's water is from any source other than an approved public water supply, the licensee shall obtain a written water analysis report, showing that the water is potable and meets the applicable requirements for safe drinking water in 18 A.A.C. 4. The licensee shall get the analysis and report from a laboratory certified by the Department of Health Services before initial operation and each annual renewal.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7459. Building Interior

- A. A licensee shall ensure that a facility's physical plant can structurally accommodate the physical and program needs of

all children in care according to the standards prescribed in this Article and the licensee's own program description.

- B. The licensee shall keep a facility clean and sanitary.
- C. The licensee shall have and maintain furnishings as prescribed in this subsection.
 1. All living areas shall have furniture designed to suit the size and capabilities of the children in care.
 2. A licensee shall replace or repair broken, dilapidated, or defective furnishings and equipment.
 3. A licensee shall have mirrors in the facility to permit children in care to examine their personal appearance.
 4. A licensee shall secure the mirrors to walls at heights convenient to the children in care.
- D. A licensee shall ensure that all spaces used by children have outside ventilation from a window, louvers, air conditioning, or other mechanical equipment. A window or door used for outside ventilation shall have a screen.
- E. A licensee shall maintain a facility's residential environment at temperatures which do not:
 1. Exceed 85° F.,
 2. Fall below 65° F. during daylight hours, or
 3. Fall below 60° F. during sleeping hours.
- F. A licensee shall use thermometers scaled at no more than 2 degree increments to determine temperature.
- G. A licensee shall not use free-standing stoves which use wood, sawdust, coal, or pellets, or portable heaters as the primary source of heat for a residential area.
- H. A licensee shall safeguard hot water radiators or steam radiators and pipes or any other heating device capable of causing a burn.
- I. A licensee shall maintain and use all electrical equipment, wiring, cords, switches, sockets, and outlets in good working order, under safe conditions, in accordance with the manufacturer's recommendations, and as prescribed in this subsection.
 1. Electrical outlets in areas accessible to children younger than 6 shall have safety plugs or plates.
 2. The licensee shall not:
 - a. Use extension cords exceeding 7 feet in length,
 - b. Allow extension cords to be connected together to extend their length, or
 - c. Allow extension cords to run across or through a room or to pass from 1 room into another.
- J. A licensee shall illuminate a facility's rooms, corridors, and stairways so that children and personnel can perform activities and tasks safely and without eye strain, and at the following minimum lighting intensities:
 1. At least 15 foot candles in living and sleeping areas,
 2. At least 30 foot candles in study areas, and
 3. At least 30 foot candles in food preparation areas.
- K. A licensee shall illuminate a facility's outdoor walkways and premises so that children and personnel using areas at night can perform activities and tasks safely.
- L. A licensee housing more than 10 children shall install and maintain emergency lighting systems in children's living quarters.
 1. In this subsection, "emergency lighting system" means a battery or generator operated system that:
 - a. Automatically activates if electrical power fails; and
 - b. Provides sufficient light for persons to exit safely in an emergency.
 2. If a licensee provides written documentation showing that a facility's emergency lighting system meets applicable city or county building codes for such systems, the system is presumed adequate to satisfy this subsection.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7460. Kitchens; Food Preparation; and Dining Areas

- A. A licensee shall maintain a facility's kitchen and dining areas, and shall handle food, as prescribed in this Section.
- B. The licensee shall:
 - 1. Equip a facility kitchen used for meal preparation with the fixtures, appliances, equipment, tools, and utensils ("kitchen equipment") necessary for the safe and sanitary preparation, storage, service, and cleanup of food;
 - 2. Keep kitchen equipment clean and in good working order;
 - 3. Not use defective, damaged, tin, or aluminum dishes or utensils;
 - 4. Not use disposable dinnerware or flatware on a daily basis unless the licensee provides evidence, at the time of initial licensure and at each renewal, that disposable items are necessary to protect the health or safety of children in care;
 - 5. Maintain the temperature of potentially hazardous food at or below 45° F. or above 140° F., except when the food is being handled or served;
 - 6. Cover all food that is to be transported outside of the kitchen and dining areas of the facility; and
 - 7. Not use home canned foods.
- C. If a facility has more than 20 children, the licensee shall comply with the requirements in A.A.C. R9-8-132 through R9-8-137.
- D. If a facility has less than 21 children, the licensee shall comply with A.A.C. R9-8-113, R9-8-115, R9-8-116, R9-8-117, and R9-8-121 through R9-9-127, and shall have:
 - 1. One refrigerator for each 10 children at a facility; and
 - 2. A 3-compartment sink; or
 - 3. A National Sanitation Foundation (NSF)-listed dishwasher; or
 - 4. A domestic dishwasher with a sanitizer cycle.
- E. A facility shall have clean dining areas and tables which allow children, staff, and guests to eat together.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7461. Sleeping Areas and Furnishings

- A. A licensee shall provide each child in care with a designated area for rest and sleep as prescribed in this Section.
 - 1. A licensee shall not use mobile dwellings, trailers, or vehicles as sleeping quarters.
 - 2. The licensee shall provide children in care with bedroom space that:
 - a. Has a direct source of natural light;
 - b. Has a window that:
 - i. Opens to the outside without a grill or other impediment to immediate, emergency exit;
 - ii. Can be easily opened from the inside;
 - iii. Measures at least 22 inches on each side; and
 - iv. Has a bottom sill that is no more than 48 inches from the floor; and
 - c. Is at least:
 - i. A 74 square foot floor area for a single occupant;
 - ii. A 50 square foot floor area for each occupant in a multiple sleeping area; or
 - iii. A 40 square foot floor area for each crib.
 - 3. The licensee shall provide each child in care with a bed that:
 - a. Is proportional to the child's height,
 - b. Is at least 30 inches wide,
 - c. Has a solidly constructed bed frame, and
 - d. Has safety railings if developmentally appropriate for the child using the bed.
- 4. If a licensee uses a bunk bed, the bed shall be limited to a double bunk, and shall have sufficient head room to allow the upper occupant to sit up.
- 5. A licensee shall use only cribs that have:
 - a. Bars or slats no more than 2-3/8 inches apart;
 - b. A mattress that fits snugly into the crib frame so that there is no space between the mattress and frame; and
 - c. No openings through which a child could place his or her head.
- 6. A licensee shall provide sheets, pillow cases, and blankets for each child and shall maintain bedding in good repair, without tears or stains.
 - a. The licensee shall ensure that sheets and pillowcases are washed at least weekly and more frequently if necessary.
 - b. The licensee shall use water resistant bedding when necessary.
- 7. A licensee shall provide each child with a dresser or other storage space adequate to contain the child's belongings and a designated space for hanging clothing in or near the child's bedroom.

- B. The square footage area prescribed in subsection (A)(2)(c) is presumed adequate. If a licensee operates a barracks type facility which does not meet these square footage requirements, the licensee shall present a written plan showing how the licensee's square footage provides enough space for sleeping, rest, study, recreation, ingress, and egress in an emergency. The Licensing Authority shall review and approve the plan if it is consistent with the licensee's described program and does not pose a risk of harm to children in care.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7462. Bathrooms

- A. A licensee shall maintain bathrooms and bathroom fixtures in good operating and sanitary condition, and as prescribed in this Section.
 - 1. The licensee shall have facility bathrooms equipped with:
 - a. At least 1 wash basin and 1 toilet for every 6 children in care;
 - b. At least 1 bathtub or shower for every 8 children in care;
 - c. Cold and hot running water, with enough hot water to allow each child a daily bath or shower;
 - d. Bathtubs and showers that are slip-resistant; and
 - e. Toilets and bathtubs or showers which allow a child to have privacy, as developmentally appropriate, or as otherwise prescribed in written program policy.
 - 2. The licensee shall not permit children age 5 or older who are of different genders to share a bathroom at the same time.
 - 3. The licensee shall equip bathrooms to facilitate maximum self-help by children through 1 or more of the following methods:
 - a. Providing children with step-stools to reach a sink,
 - b. Providing smaller sized bathroom fixtures,
 - c. Providing training toilets,
 - d. Placing towel racks and dispensers at lower heights, or

- e. Other similar or comparable methods.
- 4. A licensee shall have bathrooms large enough to permit staff to help children who require it.
- 5. A licensee shall provide bathrooms with sufficient toilet paper, towels, soap, and other items required to maintain good personal hygiene, or shall provide children with personal supplies of these items.
- B.** The bathroom fixture requirements prescribed in subsections (A)(1)(a) and (b) are presumed adequate. If a licensee operates a barracks type facility which does not meet these requirements, the licensee shall present a written plan showing how the licensee's bathroom facilities permit children in care to maintain adequate hygiene. The Licensing Authority shall review and approve the plan if it is consistent with the licensee's described program and does not pose a risk of harm to children in care.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7463. Other Facility Space; Staff Quarters

- A.** A licensee shall ensure that a facility has:
 - 1. A place other than children's living areas to serve as an administrative office for records, secretarial work, and bookkeeping; and
 - 2. Space for private discussions and counseling sessions between individual children and staff.
- B.** If a licensee has staff who reside at the facility, the licensee shall provide those staff with living and sleeping space that is separate from children's areas, including a separate bathroom. The licensee shall provide the children of these staff, who also reside at the facility, with a residential environment that meets the requirements of this Article for children in care.
- C.** A licensee operating a barracks type facility that has been approved as described in R6-5-7461(B) and R6-5-7462(B) is not required to provide separate space as described in subsection (B).

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7464. Fire, Emergency, and Fire Prevention

- A.** Emergency Procedures: A licensee shall have written procedures for staff and children to follow in case of emergency or disaster (natural, medical, or human-caused). The procedures shall include the following:
 - 1. Provisions for the evacuation of buildings, including the evacuation of children with physical disabilities;
 - 2. Assignment of staff to specific tasks and responsibilities;
 - 3. Instructions on the use of alarm systems and signals;
 - 4. Specification of evacuation routes and procedures, with clearly marked diagrams; and
 - 5. Notification as prescribed in R6-5-7434.
- B.** Emergency Practices and Drills: A licensee shall prepare staff and children to respond to emergencies as prescribed in this subsection.
 - 1. The licensee shall train all staff to perform assigned tasks during emergencies, including the location and use of fire fighting equipment.
 - 2. The licensee shall train staff and children to report fires and other emergencies in accordance with written emergency procedures.
 - 3. The licensee shall post evacuation procedures in conspicuous locations throughout all buildings.

- 4. The licensee shall train staff and children in evacuation procedures and conduct emergency drills at least once a month as prescribed in this subsection.
 - a. Practice drills shall include actual evacuation of children to safe areas.
 - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
 - c. All persons in the building at the time of a drill shall participate in the drill.
- 5. A licensee shall maintain a record of all emergency drills. The record shall include:
 - a. Date and time of drill,
 - b. Total evacuation time,
 - c. Exits used,
 - d. Problems noted, and
 - e. Measures taken to ensure that children understand the purpose of a drill and their responsibilities during a drill.

- C.** Fire Prevention and Control: A licensee shall have and maintain fire prevention and safety equipment as prescribed in this subsection.

- 1. In a facility's residential environment, the licensee shall install and maintain smoke detectors according to the manufacturer's instructions, recommendations, and test specifications and shall maintain smoke detectors in good working order. Each smoke detector shall have a signal to indicate that batteries are low or are not working properly.
- 2. The licensee shall put a smoke detector in each separate sleeping area.
- 3. The licensee shall clean and test smoke detectors at least every 3 months. The licensee shall keep a written record of the cleaning and testing at the facility.
- 4. A licensee shall install and maintain portable fire extinguishers appropriate in number and size to the area to be protected.
- 5. A licensee shall have a qualified person inspect and, if necessary, recharge fire extinguishers at least once a year and immediately after use.
- 6. A licensee shall:
 - a. Document the dates that a fire extinguisher is charged and the person or agency responsible for charging it; and
 - b. Attach the documentation to the extinguisher.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7465. General Safety

- A.** Ground Floor: A licensee shall house non-ambulatory children and children younger than 6 only on the ground floor.
- B.** Dangerous objects: A licensee shall safeguard all potentially dangerous objects, including:
 - 1. Firearms and ammunition;
 - 2. Recreation and hunting equipment;
 - 3. Household and automotive tools;
 - 4. Sharp objects such as knives, glass objects, and pieces of metal;
 - 5. Fireplace tools, matches, and other types of lighters;
 - 6. Machinery;
 - 7. Electrical wires, boxes, and outlets;
 - 8. Gas appliances;
 - 9. Chemicals, cleaners, and toxic or flammable substances;
 - 10. Swimming pools, ponds, spas, and other natural or artificial bodies of water; and

11. Motorized vehicles.
- C.** Water Temperature: A licensee shall maintain water that is accessible to children for personal use at a temperature at or below 120° F.
- D.** Gas appliances:
1. A licensee shall have a licensed and bonded heating and cooling technician annually inspect all gas-fired devices at a facility. The licensee shall get a written report of the inspection for submission to the Licensing Authority at the time of license renewal.
 2. A licensee shall equip all gas-fired devices with an automatic pilot gas shut-off control.
 3. A licensee shall remove the valves from unused gas outlets and cap the disconnected gas line with a standard pipe cap.
 4. A licensee shall not use unvented water heaters.
 5. A licensee shall not use kerosene or gasoline for lighting, cooking, or heating.
 6. If a licensee uses a natural or propane gas burning device inside a facility, the licensee shall:
 - a. Install, test, and check carbon monoxide monitoring equipment in a facility's residential environment according to the manufacturer's instructions;
 - b. Maintain the monitoring equipment in good working condition; and
 - c. At the facility, keep a copy of the manufacturer's instructions, and, for 1 year, a record of the tests.
- E.** Finishes and surfaces:
1. A licensee shall not surface walls or ceilings with materials containing lead except as allowed by law for protection from wood, pellet, or peat burning stoves.
 2. A licensee shall not have any walls, equipment, furnishings, toys, or decorations surfaced with lead paint.
 3. A licensee that accepts children who are under age 6, developmentally disabled, or severely emotionally disturbed, shall maintain the facility free of lead paint hazards, including permanent removal of any paint that a child may ingest.
- F.** Toxic and Flammable Substances:
1. A licensee shall ensure that any poisons and toxic or flammable substances used at a facility are used in a manner and under conditions that will not contaminate food or be hazardous to children.
 2. A licensee shall ensure that containers of poisons and toxic or flammable substances are prominently and distinctly marked or labeled for easy identification of contents.
 3. A licensee may burn trash only when:
 - a. Local authorities and ordinances allow burning;
 - b. The fire is at least 50 feet from any building used for children's residences; and
 - c. An adult supervises any child involved in the burning.
 4. A licensee shall not use charcoal or gas grills indoors or on covered porches.
- G.** Firearms, Weapons, and Recreational and Hunting Equipment:
1. A licensee shall ban firearms, explosives, and ammunition from a facility and grounds, except a licensee may allow the following:
 - a. Firearms maintained and used exclusively by trained security guards; and
 - b. Non-functional, permanently disabled firearms used for ceremonial purposes if such use is documented in the licensee's policy and procedures.
 2. A licensee shall keep bows and arrows, knives, and other potentially hazardous hunting and recreational equipment in locked secure storage which is not accessible to children.
- H.** Tools and Equipment: A licensee shall maintain lawn and garden equipment and maintenance tools and equipment safe and in good repair, and shall allow children to use them only under the supervision of staff. Depending on the developmental level of the child, the supervision need not be direct supervision.
- I.** Telephone service:
1. A licensee shall equip each living unit with 24-hour telephone service or an intercom system linked to an outside telephone service.
 2. A licensee shall conspicuously post, adjacent to the telephone,
 - a. The address and telephone number of the facility; and
 - b. Emergency telephone numbers, including fire, police, physician, poison control, Child Protective Services, and ambulance.
- J.** Smoking:
1. A licensee shall not expose a child in care to tobacco products or smoke.
 2. A licensee shall not allow any person to use tobacco products inside buildings.
 3. A licensee shall not allow a child in care to use or possess tobacco products.
- K.** Animals:
1. The licensee shall not maintain, at a facility, any animal that poses a danger to children in care.
 2. The licensee shall have written evidence that dogs kept at a facility have current vaccinations against rabies.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7466. Swimming Areas

- A.** A licensee shall fence an outdoor swimming pool to separate it from all buildings, with a fence that:
1. Is at least 5 feet high, as measured on the exterior side of the fence; and
 2. Has a self-closing, self-latching gate that opens away from the swimming pool. The licensee shall maintain the latching equipment in good working order.
- B.** If the licensee accepts children younger than 6, the fence shall:
1. Have no opening through which a spherical object of 4 inches in diameter can pass;
 2. Have horizontal components which:
 - a. Are spaced at least 45 inches apart, measured vertically; or
 - b. Do not have any openings greater than 1-3/4 inches, measured horizontally; or
 3. Not have any openings for handholds or footholds, or any horizontal components, that can be used to climb the fence from the outside.
- C.** Subsections (A) and (B) do not apply to outdoor swimming pools that are entirely surrounded by permanent walls or buildings with doors that can be locked, so long as the walls or building meet the requirements for fencing set forth in subsections (A) and (B).
- D.** A licensee shall lock all entrances to a swimming pool when the pool is not in use.
- E.** A licensee shall maintain the following life-saving equipment in good repair and readily accessible to the swimming pool:
1. A ring buoy with 1/2-inch width rope that is at least half the distance of the pool measured at its longest point, plus 10 feet; and
 2. A shepherd's crook attached to its own pole.

- F. At least 1 of the staff members supervising children in a pool, shall remain out of the water.
- G. When a pool is in use, a licensee shall keep a daily log to record water quality test results of an on-grounds swimming pool and shall maintain the pool free from contamination in accordance with 9 A.A.C. 8, Article 8.
- H. The licensee shall, when chlorination is used, maintain a free chlorine residual of between 0.1 and 4.0 parts per million, and a pH range of 7.0 to 8.0. A licensee may add dry or liquid chemical sources directly to pool water only when enough time exists for dispersal before use.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7467. Access; Transportation; Outings

- A. Access.
 - 1. A facility shall be accessible by public or private motor vehicle.
 - 2. If the facility cannot be accessed by a road that is passable by motor vehicle 12 months of the year the licensee shall have alternative transportation arrangements to provide access to the facility.
- B. Transportation.
 - 1. A licensee shall provide, arrange, or negotiate responsibility for arranging, with the placing agency or person, transportation required to implement a child's service plan.
 - 2. A licensee shall provide staff supervision in any vehicle the licensee uses to transport a child in care.
- C. Outings.
 - 1. For every facility sponsored outing which is not part of the daily routine, such as a recreational trip of 4 hours or more, or an outing where emergency medical services cannot respond within 12 minutes, a licensee shall maintain, at the facility, a record of the following information:
 - a. A list of children participating in the outing;
 - b. Departure time and anticipated return time;
 - c. License plate numbers of every vehicle used for the outing; and
 - d. Name, location, and, if known, telephone number of the destination.
 - 2. The licensee shall give the driver of a vehicle written emergency information on each child who is participating in the outing and riding with that particular driver.
 - 3. The person supervising the child shall keep the information during the outing. The information shall include:
 - a. Each child's medication requirements, if any;
 - b. Common and known potential adverse reactions a child may have to a medication;
 - c. Adverse reactions a child may have as the result of delay in administration of medication; and
 - d. Any other adverse reaction a child is likely to have due to the child's special needs, including allergic reactions to particular substances or insects.
 - 4. The licensee shall tell the driver about a child's particular needs or problems which may reasonably cause difficulties during transportation, including seizures, tendency toward motion sickness, disability, anxiety, or other phobias.
- D. Extended outings: If a licensee takes children in care on an outing that lasts more than 30 consecutive days, the licensee shall:
 - 1. Obtain court permission for any children who are court wards;

- 2. Comply with the requirements in R6-5-7469 through R6-5-7471 governing outdoor experience programs.

E. Vehicles.

- 1. A licensee shall ensure that all vehicles used for the transportation of children in care:
 - a. Are mechanically sound and in good repair,
 - b. Conform to applicable motor vehicle laws, and
 - c. Have equipment appropriate to the terrain and the weather.
- 2. The licensee shall not allow the number of individuals in a vehicle used to transport children in care to exceed the number of available seats and seat belts in a vehicle other than a bus. If the vehicle is a bus, the licensee shall not exceed the maximum stated occupancy on the bus inspection certificate.
- 3. A licensee serving nonambulatory children or children with disabilities shall provide access to transportation that accommodates the children's special needs and disabilities.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7468. Special Provisions for Shelter Care Facilities

- A. General Requirements: A licensee operating a shelter care facility shall comply with all requirements prescribed in this Article, unless otherwise provided in this Section.
- B. Admission Policy and Practice:
 - 1. If a child has already been in shelter care for more than 42 days, a licensee shall not admit the child into shelter care at the licensee's facility, or permit the child to continue residing at the licensee's facility, unless the licensee has:
 - a. Asked the child's placing agency or person to have a multidisciplinary team:
 - i. Assess the child through a review of the child's records or in person; and
 - ii. Develop a service plan for the child; and
 - b. Documented the request in the child's record.
 - 2. When a child self-refers to a shelter care facility, the licensee shall, within 24 hours of the child's arrival:
 - a. Notify the Department or the child's guardian; and
 - b. Document the placing agency or person's consent for the child's continued placement in a written agreement with the placing agency or person, or by obtaining a court order.
 - 3. A licensee does not have to obtain medical information and consents before or at the time of a child's admission to a shelter care facility as prescribed in R6-5-7438(E)(4) and (5), but shall document attempts to obtain the medical consents from the placing agency or person within 2 days of the child's admission.
 - 4. At the time of a child's admission, the licensee is not required to obtain the comprehensive intake assessment required by R6-5-7438(D), but shall work with the placing agency or person to compile information on and assess the child's current social, behavioral, psychological, developmental, health, legal, family, and educational status, as applicable to the child.
- C. Staff-child ratio: A shelter care facility shall comply with the staff-child ratios prescribed in R6-5-7437, except that a licensee who accepts 6 or more children in care at a shelter facility shall have at least 1 awake staff member on duty during sleeping hours.
- D. Staff development: In addition to the training requirements prescribed in R6-5-7433, a licensee shall train staff members

who work at a shelter care facility to recognize the signs and effects of:

1. Substance use and abuse,
 2. Common childhood illness, and
 3. Communicable disease.
- E.** Medical care: A shelter care facility does not have to provide or arrange a medical examination as required by R6-5-7452(B)(1) unless the general health assessment required by R6-5-7438(E)(9) indicates a need for further medical attention.
- F.** Service planning: Unless a child remains in continuous shelter care for more than 42 consecutive days, a licensee operating a shelter care facility is not required to comply with the R6-5-7441 regarding service planning.
- G.** Children's records: A licensee shall maintain a record for each child in a shelter care facility as prescribed in R6-5-7428 except the licensee need not:
1. Comply with R6-5-7441, except as otherwise provided in subsection (F) above; or
 2. Maintain treatment or clinical records and reports or progress monitoring notes as required by R6-5-7428(9) and (13).

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7469. Special Provisions and Exemptions for Outdoor Experience Programs

- A.** A licensee operating an outdoor experience program shall comply with the requirements in 6 A.A.C. 5, Article 74, except as otherwise provided in this Section.
- B.** An outdoor experience program shall not accept children younger than age 8.
- C.** An outdoor experience program is exempt from the requirements set forth in the following rules:
1. R6-5-7458.Buildings; Grounds; Water Supply;
 2. R6-5-7459.Building Interior;
 3. R6-5-7460.Kitchens; Food Preparation; and Dining Areas;
 4. R6-5-7461.Sleeping Areas and Furnishings;
 5. R6-5-7462.Bathrooms;
 6. R6-5-7463.Other Facility Space; Staff Quarters;
 7. R6-5-7464.Fire, Emergency, and Fire Prevention;
 8. R6-5-7465.General Safety;
 9. R6-5-7466.Swimming Areas;
 10. R6-5-7467.Access; Transportation; Outings; and
 11. R6-5-7468.Special Provisions for Shelter Care Facilities.
- D.** An outdoor experience program shall comply with the requirements in R6-5-7470 and R6-5-7471.
- E.** If there is a conflict between the requirements set forth in R6-5-7401 through R6-5-7468 and the requirements set forth in R6-5-7469 through R6-5-7471, the latter requirements govern.

Historical Note

Adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7470. Planning Requirements for Outdoor Experience Programs

- A.** Definitions. As used in this Section, the term "agency" means a licensee operating an outdoor experience program.
- B.** Trip itinerary. The agency shall develop a tentative day-to-day itinerary and a trip map for each trip prior to departure. One copy each of the itinerary and map shall be distributed as follows: to the agency for its office files; to the mobile program staff; when appropriate, to local authorities at each point on the itinerary before departure; to the child placing agency rep-

resentative for each child who will be departing on the trip, and to the Department licensing representative. When major amendments to the itinerary are necessary due to unforeseen circumstances on the trip, written notification to the designated individuals shall be made. The itinerary shall reflect the following:

1. The travel schedule shall allow for daily periodic rest stops, relaxation, exercise, and personal time.
 2. The travel schedule shall not exceed 5 consecutive days without at least 2 full intervening non-traveling days, unless emergency conditions such as storms force travel to safer sites.
 3. The travel schedule shall specify the number of days of the trip, including departure and return dates and times, and mileage to be covered each day.
 4. The travel schedule shall specify the route, specific tentatively planned locations of overnight stops, and activities in which children will participate.
 5. The travel schedule shall specify the mode of transportation.
- C.** Trip plans. The agency shall develop written plans prior to the departure of each trip. These plans shall include:
1. The name, age, sex, address, and emergency phone number of each staff participant and of each child's parent or guardian and placing agency;
 2. The exact location and access route for emergency rescue, search, fire, and medical assistance and law enforcement authorities at each program stop or location including the names, addresses, telephone numbers of other alternative means of communication with such authorities in case of an emergency. This information shall be included and identified on the trip map;
 3. Contingency plans to deal with medical problems, fire, natural disasters, lost children, and other emergencies;
 4. Plans for the care of any person who, for any reason, must be excluded from the program for a period of time;
 5. Provision for and storage within ready access of the program staff, documents which fully identify the group, its leadership, ownership of equipment, purpose, insurance coverage, home base, and which contain completed health history forms and emergency treatment release forms;
 6. Identification of appropriate sources or locations for water, food, doing laundry, bathing, liquid and solid waste, and garbage disposal;
 7. A scheduled progress and condition report system between the mobile program and the agency administrator;
 8. The maintenance by staff of a trip log which details each day's operation including travel time, mileage covered, and occurrences of the day;
 9. The safe storage for all supplies and equipment while in transit as well as at the campsites.
- D.** Pre-departure procedures
1. The appropriate permissions shall be secured, if possible prior to departure, for traveling on roads and properties, using sites, and building fires.
 2. Prior to departure, each child shall receive medical clearance from a physician in order to participate in the mobile portion of the program.
 3. Prior to departure, all children and staff shall receive instruction in the safe and proper use of all equipment to be used on the trip.
 4. Prior to departure, all children and staff shall be oriented as to safety regulations, emergency procedures, and transportation to emergency facilities or personnel, or both.

5. Prior to departure, the route, activities and logistics shall be approved in writing by the agency administrator.
6. An emergency liaison coordinator shall be appointed prior to departure. This coordinator or the coordinator's designee shall be available on a 24-hour basis. This person shall be located at the agency administrative office, and shall be at least 21 years of age and shall possess the following information about the program:
 - a. Names of individuals on the trip, including the staff member in charge;
 - b. Exact trip itinerary;
 - c. Number of days, including departure and return dates and times;
 - d. Rescue and evacuation plans and locations;
 - e. Pertinent medical information about program participants.

Historical Note

Renumbered from R6-5-7307 to R6-5-7470 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

R6-5-7471. Special Physical Environment and Safety Requirements for Outdoor Experience Programs

- A. Definition. As used in this Section, the term "agency" means a licensee operating an outdoor experience program.
- B. Campsite location
 1. General. The agency shall conduct activities on sites appropriate for the children in terms of individual needs, program goals, and access to service facilities.
 2. Hazards
 - a. When selecting a campsite, the agency shall consider supervision of children, security, evacuation routes, animal hazards, and weather conditions, including the possibilities of lightning or flood.
 - b. A campsite shall be located on land that provides good drainage. A campsite shall not be located in a river bed or desert wash.
 - c. A campsite shall be free of debris, poisonous vegetation, and uncontrolled weeds or brush.
 - d. Children shall be warned and protected from hazardous areas such as traffic, cliffs, sinkholes, pits, falling rock or debris, abandoned excavations and poisonous vegetation. Hazardous areas shall be guarded or posted to reduce the possibility of accidents.
- C. Physical environment
 1. Sleeping shelters
 - a. All tents, teepees, or other sleeping shelters made of cloth shall be fire retardant or, if purchased after January 1985, shall be of the fiber-impregnated flame-retardant variety. Plastic sleeping enclosures of any type are prohibited.
 - b. Tents or other shelters used for sleeping areas shall be easily cleanable and in good repair, shall be structured and maintained in safe condition and shall afford adequate protection against inclement weather.
 - c. Tents or other types of temporary shelters shall provide sleeping space of not less than 15 square feet per person.
 - d. Campfires and open flames of any type are prohibited within 21 feet of any tent, teepee, or other sleeping shelter.
 - e. Smoking is prohibited within any sleeping shelter.
 - f. All sleeping shelters shall be posted with a permanent warning "No open flame in or near this shelter". This warning shall be on a sign or stenciled directly on the shelter.

- g. Sleeping areas shall have direct exit access to the outside which is free of all obstruction or impediments to immediate use in the case of fire or other emergency.
2. Sleeping equipment
 - a. Sleeping equipment shall be provided by the agency and shall be clean, comfortable, non-toxic and fire-retardant.
 - b. Sleeping equipment shall provide reasonable insulation from cold and dampness. In addition to sleeping bag or blankets, insulation from the ground such as with a waterproof ground cloth or air or foam mattress shall be provided. A waterproof sleeping bag is not satisfactory.
 - c. All sleeping equipment shall be laundered, dry cleaned, and otherwise sanitized between assignment to different children or staff. Bedding shall be aired at least once every 5 days and laundered, dry cleaned, and sanitized once every 30 days.
 - d. Each child shall have a place for personal own sleeping equipment, clothes, and personal belongings. Such items shall be labeled or marked as to which child is using or owns such items.
3. Outdoor toilet areas
 - a. The agency with outdoor toilet areas shall provide facilities which allow for individual privacy.
 - b. Toilet areas shall be constructed, located and maintained so as to prevent any nuisance or public health hazard. Facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner as prescribed by the Department of Health Services in A.A.C. R9-8-301 through R9-3-308, and the Department of Environmental Quality in 18 A.A.C. 8, Article 6.
 - c. Toilet areas which do not have plumbing shall be located at least 75 feet from but within 300 feet of any living or sleeping area, or both, and shall be located at least 100 feet from any lake, stream, or water supply.
 - d. Toilets, outhouses, or portable shacks shall be adequate in number based on 1 seat for every 10 children in care.
 - i. There shall be a minimum of 2 seats if there are more than 5 children.
 - ii. If the agency serves physically disabled children, toilet facilities shall provide 1 seat for every 8 persons.
 - e. Toilet facilities shall be well ventilated, allow for air circulation, be screened and periodically treated to deter insects, and be in good repair. An adequate supply of toilet paper shall be provided.
 - f. Toilets, outhouses, and portable shacks shall be cleaned and disinfected at least daily. Portable shacks shall be dumped daily in an approved dump station.
 - g. Toilet seats shall be constructed of nonporous materials. Wood is not acceptable.
 - h. Handwashing facilities shall be adjacent to the toilet area and shall be separate and apart from sinks and areas used for food preparation or washing pots, pans, kitchen, and eating utensils. Individual soaps and hand-drying devices shall be available.

4. Food preparation and serving
 - a. Menus. Menus shall be planned at least 1 week in advance and shall then be dated, posted, and kept on file for 1 year.
 - b. Food
 - i. All food and drink shall be stored to prevent spoilage. Only the foods which can be maintained in a wholesome condition with the equipment available shall be used.
 - ii. All milk and milk products utilized by the agency shall be obtained from sources approved by the State Department of Health Services.
 - iii. Only pasteurized milk and U.S. Government-inspected meat shall be served to the children. Powdered milk may only be used for cooking or when no refrigeration is available on a wilderness trip.
 - iv. Spoiled or contaminated foods shall not be used.
 - v. Raw fruits and vegetables shall be washed before use.
 - c. Preparation
 - i. All persons handling food shall wear clean outer garments and keep their hands and fingernails clean at all times while handling food, drink, utensils, or equipment.
 - ii. Smoking in the food preparation area is prohibited.
 - iii. Handwashing areas, including water, soap, and approved sanitary towels or other approved hand-drying devices, shall be provided adjacent to food preparation areas.
 - iv. Areas in which food and drink are stored, prepared or served, or in which utensils are washed, shall be rodent proof, rodent free, and rubbish free. They shall be cleaned after the serving of each meal. Any floors, walls, shelves, tables, utensils, and equipment in these areas shall be of such construction as to be easily cleaned, and shall be well lighted and ventilated.
 - v. All food preparation and service shall comply with applicable Department of Health Services food service rules in 9 A.A.C. 8, Article 1.
 - vi. No dish, receptacle, or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, or broken.
 - vii. Prepared food shall be maintained at temperatures below 45° F. or above 140° F.; leftovers shall be reheated to 165° F.
 - d. Serving
 - i. Meal time shall be structured to make it a pleasant experience with sufficient time allowed for the children to eat at a reasonable, leisurely rate.
 - ii. Normal conversation shall be allowed and encouraged during meals.
 - e. Dish and utensil washing
 - i. Disposable or single-use dishes, utensils, receptacles or towels used in handling or preparing food shall be discarded after 1 use.
 - ii. Non-disposable food service dishes and utensils shall be cleaned and disinfected after each use in accordance with the following:
 - (1) A 3 compartment sink or vat shall be used. Dishes and utensils shall be thoroughly scraped, washed with soap or detergent in hot water, kept clean, then rinsed free of detergents in clear water and then immersed for a period of at least 2 minutes in a warm or hot chlorine solution containing at no time less than 50 parts per million of available chlorine or such other solution as may be approved by the state or local health authority.
 - (2) Sinks shall be large enough to thoroughly immerse pots and pans.
 - (3) Dish towels shall not be used.
 - (4) Dishes and utensils shall be air dried. Drain boards shall be provided for draining dishes and utensils.
- D. Equipment
 1. Tools. Power tools, garden tools, and repair equipment shall be kept in a locked area and used by children only under adult supervision.
 2. Protective clothing/equipment. Appropriate protective clothing/equipment shall be provided to children by the agency, when children are participating in potentially hazardous activities.
 3. Program equipment
 - a. The agency shall use program equipment that is maintained in good repair, stored in such a manner as to safeguard the effectiveness of the equipment, and is given a complete safety check periodically and immediately prior to each use. Equipment shall be discarded after a period of time designated by the manufacturer.
 - b. The agency shall use program equipment appropriate to the age, size, and ability of each child in the activity.
 - E. Storage. The agency shall provide sufficient and appropriate storage facilities.
 1. Toxic substances
 - a. The agency shall have securely locked storage spaces for all harmful materials. The keys to such storage spaces shall be available only to authorized staff members.
 - b. House and garden insecticides and other poisonous materials and all corrosive materials shall be kept in locked storage out of reach of children. Such storage shall not be in or near kitchen or food preparation or storage areas.
 - c. The agency shall have only those poisonous or toxic materials needed to maintain the program.
 2. Drugs
 - a. A special cabinet shall be designated for medicine only. The medicine cabinet shall be kept locked and periodically cleaned. All outdated medications and those prescribed for past illnesses or for children discharged from the agency shall be destroyed.
 - b. All prescription medicines, drugs, etc., requiring refrigeration shall be marked with the required temperature range and stored in a refrigerator with a thermometer separate from food items and maintained under temperature ranges recommended by the manufacturer.
 3. Flammable materials. Flammable liquids and gases shall be stored in metal containers only. The storage area must be separated from the rest of the living/program area.
 4. Food
 - a. All food and drink shall be stored so as to be protected from dust, flies, vermin, rodents, and other

contamination. No live animals shall be allowed in any area in which food or drink is stored.

- b. Food and nontoxic cleaning supplies must be stored separately. Clean dishes and utensils shall be stored on properly covered shelves or in containers which are cleaned once a week with a chlorine solution (1 tablespoon of bleach to 1 gallon of water or an acceptable equivalent).
- c. All perishable food items shall be kept refrigerated except during the time of preparation and service.
- d. The temperature of refrigerated food must be maintained within a range from 38°F. to 45°F.
- e. A thermometer shall be located in each refrigerator, including ice boxes and ice chests, as well as electric or gas refrigerators. Where ice and ice boxes or chests are used, adequate ice shall be provided, meats and other highly perishable foods shall not be stored over 24 hours and ice chests shall be drained to prevent accumulation of water from melted ice.

F. Water

1. Approved source. The agency must have a sufficient water supply which is potable and from an approved source or purified for drinking, brushing teeth, and cooking.
2. Water purification. Water purification tablets or other means of disinfecting water shall be available at all times. The agency shall have a written policy on effective purification methods to be employed according to the water sources utilized and possible types of contamination.
3. Bathing. Warm water facilities shall be planned for and available for each child to bathe at least once a week.
4. Washing and laundering. Personal washing and laundering is not permitted in any body of water. Water used for these purposes shall be taken in a container from the lake, river or pond, and after use, shall be dumped on land at least 50 yards from the water source.
5. Drinking water
 - a. Cool, potable drinking water shall be available for all children at all times.
 - b. The use of a common drinking utensil is prohibited.

G. Sanitation

1. Health and Environmental requirements
 - a. The disposal of sewage, garbage, and other wastes shall be done in accordance with local health and applicable state requirements, as provided in 18 A.A.C. 8, Article 6 and 18 A.A.C. 9, Article 8.
 - b. The agency shall obtain sanitation inspections of mobile kitchens or mobile toilet facilities, or both, prior to each trip by state or county authorities. Written reports of the sanitary inspections shall be kept on file at the agency. The agency shall meet all local, state, and federal health rules and regulations.
2. Garbage and rubbish
 - a. Garbage and rubbish shall be stored securely in durable, noncombustible, leakproof, non-absorbent containers covered with tight-fitting lids. Such containers shall be provided with a waterproof liner or thoroughly cleaned after each emptying.
 - b. Garbage and rubbish storage shall be separate from living/sleeping areas.
 - c. Garbage, rubbish and other solid wastes shall be disposed of twice weekly at an approved sanitary landfill or similar disposal facility. In areas where no facilities are immediately available, solid wastes shall be packed out or disposed of in a manner in accordance with the regulations governing the area.

3. Sewage and wastes
 - a. Sewage and other liquid wastes shall be disposed of in a public sewage system or, in the absence thereof, in a manner approved by the local health authority.
 - b. Where possible, adequate and safe sewage facilities with flush toilets shall be provided.
4. Insects and rodents. Methods utilized in control of insects and rodents shall be used in a safe, cautious manner to avoid poisonous or toxic contamination to human beings.

H. Safety

1. Emergency procedures
 - a. The agency shall have and follow written procedures for staff and children in case of emergency. These procedures shall be developed with the assistance of qualified fire, safety, and rescue personnel and shall include provisions for the evacuation of all program areas and assignment of staff.
 - b. The agency shall train staff and children to report fires and other emergencies appropriately. Children and staff shall be trained in fire prevention.
 - c. The agency shall conduct emergency drills which shall include actual evacuation of children to safe areas at least monthly. The agency shall provide training for personnel on all shifts in performing assigned tasks during emergencies and making personnel familiar with the use of agency fire-fighting equipment.
 - i. Emergency drills shall be held at unexpected times and under varying conditions to simulate the possible conditions of fire or other disasters.
 - ii. All persons in the program area shall participate in emergency drills.
 - iii. A record of such emergency drills shall be maintained.
 - iv. The agency shall make special provisions for the evacuation of any physically handicapped children in the program.
 - v. The agency shall help emotionally disturbed or perceptually handicapped children understand the nature of such drills.
2. General program safety
 - a. The agency shall have written operating procedures, safety regulations, and emergency procedures for special program activities in which children participate, including aquatics, diving, lifesaving, instructional swimming, recreational swimming, water skiing, skin diving, scuba diving, boating, canoeing, rowing, sailing, crafts, bicycling, farming, horse-back riding, mountaineering, rock climbing, rappelling, caving, outdoor living skills, physical fitness, snow and ice activities, archery, gymnastics, riflery, contact sports, backpacking, expedition travel, and animal handling.
 - b. The agency shall provide the written operating procedures, safety regulations, and emergency procedures to the Department licensing staff for review and approval.
 - c. All children and staff shall receive instruction in the safe and proper use of all equipment and animals to be used by the program.
 - d. All children and staff shall be oriented as to safety regulations, emergency procedures and transportation to emergency facilities and/or personnel.
3. Electrical

- a. Electrical wiring and electrical appliances shall be installed in accordance with the Arizona State Fire Code at A.A.C. R4-36-201.
 - b. Electrical wires extending over activity areas shall be fully insulated and located at least 12 feet above the activity area.
 - c. All exposed wiring shall be fully insulated.
- 4. Gas appliances
 - a. The installation of gas appliances for lighting, cooking, space heating, and water heating shall conform to state and local codes. Where no code applies, the provisions of A.R.S. §§ 36-1621 through 36-1626, together with the standards for the installation of gas appliances and gas piping, shall be followed.
 - b. All unused gas outlets shall have the valves removed and shall be capped off with a standard pipe cap.
 - c. Gasoline shall not be used for lighting, cooking, or heating.
- 5. Fire safety equipment
 - a. Portable fire extinguishers shall be available and maintained for emergency fire protection. The number and type shall depend on the area to be protected.
 - b. All fire extinguishers shall be inspected at least monthly by staff members for proper location and to determine whether they are accessible, fully charged, and operable.
 - c. All fire extinguishers shall be inspected by an authorized fire extinguisher company at least once a year from the date of last charge and recharged immediately after use, or as otherwise necessary, showing the date of charging and the agency or company performing the work.
 - d. A dependable method of sounding a fire alarm shall be maintained in every agency area where children are located.
 - e. A written fire evacuation plan shall be posted.
- I. Water safety**
 - 1. Water activities supervision
 - a. A water activities program operated by the agency shall at all times be under the immediate supervision of a person holding current certification as a Red Cross Water Safety Instructor, a YMCA Instructor in swimming and life saving, or an Aquatic Instructor Boy Scouts of America. A water-activities program includes recreational and instructional swimming in a pool, on a beach, or other approved water areas, rowing, canoeing, sailing, boating, water skiing, snorkeling and scuba diving.
 - b. The water activities supervisor shall provide pre-service training programs for participating children, supervise qualified lifeguards for water activities and maintain water activities equipment in safe working order.
 - c. There shall be a minimum of 1 guard currently certified in Red Cross Advanced Lifesaving, YMCA Lifesaving, or a Lifeguard Boy Scouts of America on duty for each 25 persons in or on the water, and in addition 1 staff member directly watching every 10 or less persons in or on the water.
 - 2. Swimming procedures
 - a. American Red Cross, YMCA, or Boy Scouts of America tests shall be used to determine each child's swimming ability. Children shall be confined to an area equal to the limits of their swimming skills or an area requiring lesser skills for which they have been classified.
 - b. A method of supervising and checking bathers shall be established and enforced. The system used shall be supervised during swimming periods by a member of the aquatics staff and checks shall be conducted not less than every 10 minutes. A written "lost swimmer" plan shall be established and all staff shall know exactly what their duties are in case of an emergency.
 - c. Children shall swim only in areas designated by the water activities supervisor as safe.
 - d. Swimming is prohibited during the hours of darkness except in lighted pools.
- 3. Swimming areas
 - a. A swimming area shall be maintained in a clean and safe condition, free from holes, sharp edges, and hidden dangers. The agency shall post notice of any known hazard in the vicinity and shall properly safeguard children.
 - b. The swimming area shall have a delineation of areas for non-swimmers, intermediates, and swimmers in accordance with the standards of the American Red Cross, YMCA, Boy Scouts of America.
 - c. Lifesaving equipment shall be provided at a swimming area and placed so it is immediately available in case of an emergency. The equipment shall be kept in good working order and include a bell or whistle, 2 assist poles, and a ring buoy.
 - d. The water of a natural swimming area shall be free from contamination by garbage, refuse, sewage pollution, or foreign material.
- 4. Watercraft and water-skiing
 - a. Any watercraft activities shall be conducted during daylight hours and supervised by the aquatics program instructor. A U.S. Coast Guard-approved life preserver shall be provided for each occupant of a watercraft. A non-swimmer shall wear a vest-type Coast Guard-approved life preserver and not be permitted in a watercraft unless accompanied by a staff member. A child shall wear a vest-type Coast Guard-approved life preserver before entering and while in white water or on a lake when the water is rough or while water-skiing.
 - b. During a watercraft activity period, a lifeguard shall patrol the watercraft area in a lifeboat. A watercraft docking area shall not be in the swimming area.
 - c. The swimming area shall not be used for the launching or stopping of water-skiers.
 - d. The agency which requires or permits children to use watercraft shall have special coverage for such activities included in the agency's liability insurance.
- J. Communications.** The agency shall have a plan for emergency communication and communication equipment available with each mobile program unit, which may include:
 - 1. Telephone in camp units and outposts;
 - 2. Two-way radio or walkie-talkie;
 - 3. Knowledge of phone or radio locations on backpack, horseback, canoe or car trips, such as Ranger stations in remote areas;
 - 4. Simple code by flag, smoke, or mirror or other means if planned in advance.
- K. Transportation**
 - 1. Vehicles

- a. The agency shall provide or arrange transportation necessary for implementing the child's service plan.
 - b. Vehicles used in transporting children in care of the agency shall be licensed and inspected in accordance with Arizona state law.
 - c. Vehicles used for the transportation of children shall be maintained in a safe condition and be equipped in a fashion appropriate for the season.
 - d. The agency shall maintain written evidence that all vehicles owned, leased, borrowed, or rented by the agency to transport children are serviced regularly and maintained safely.
 - e. Vehicles used for the transportation of children shall be equipped with a first-aid kit and emergency accessories including tools, a fire extinguisher and flares or reflectors.
 - f. The agency shall not allow the number of persons in any vehicle used to transport children to exceed the number of available seats in the vehicle.
 - g. The agency shall not transport children in open truck beds or in trailers.
 - h. The agency shall ensure that any vehicle used to transport children has the following minimum amounts of liability insurance:

Injury per person:	\$300,000
Injury per accident:	\$1,000,000
2. Drivers
 - a. Any person transporting children in care of the agency shall be licensed to operate that class of vehicle according to Arizona state law.
 - b. The agency shall provide adequate supervision in any vehicle used by the agency to transport children in care.
 - c. The agency shall ascertain the nature of any need or problem of a child which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness, or a disability. The agency shall communicate such information to the operator of any vehicle transporting children in care.
 3. Transportation of nonambulatory children. The following additional arrangements are required for agencies serving handicapped, nonambulatory children.
 - a. A ramp device to permit entry and exit of a child from the vehicle must be provided for all vehicles except automobiles used to transport physically handicapped children. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.
 - b. In all land vehicles except automobiles, wheelchairs shall be securely fastened to the floor.
 - c. In all land vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.
 4. Emergency transportation
 - a. The agency shall have means of transporting children in cases of emergency.
 - b. The agency shall have a written plan for transportation of injured persons to emergency medical services.
- L. Animals**
1. Safety. The agency shall be responsible for the care and behavior of pets or any animals allowed or used in the program. Animals shall have had necessary rabies shots.
 2. Insurance. The agency which requires or permits children to ride horses or other domesticated animals shall have specific coverage for such activities included in the agency's liability insurance.
 3. Sanitation. A temporary, shelter, corral, tie-rail, or hitching post shall be located beyond 50 feet of an area where food is prepared, cooked, or served. Fly repellents and daily removal of manure shall be used to prevent such a location from becoming an attraction for or breeding place for flies.

Historical Note

Renumbered from R6-5-7308 and amended effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

APPENDIX 1

FACTOR	INDICIA OF A BEHAVIORAL HEALTH AGENCY	INDICIA OF A CHILD WELFARE AGENCY
1. Primary purpose	To provide mental health treatment	To provide a safe & healthy living environment
2. Accreditation	JCAHO; COA; CARF	COA; Never JCAHO for this specific facility seeking licensure
3. Nursing Services	Integrated into services	Occasional use
4. On-campus educational services	Primarily seriously emotionally disturbed (SED); occasional regular education	Primarily regular education & learning disabilities; occasional SED
5. Population served	Described as psychiatrically disordered; seriously emotionally disturbed; psychologically disturbed	Described as behavior disordered, delinquent, dependent, neglected, undersocialized
6. Self-description	Behavioral Health Program Psychiatric Facility Psychosocial orientation	Child Welfare Agency; Social Services Agency; Educational orientation; Re-education
7. Primary source of referrals	Psychologists; psychiatrists; Insurance companies; CHAMPUS; RBHA's	DES; Juvenile courts; Juvenile Corrections; RBHA's as transition or with wrap-around
8. Counseling, psychological, psychiatric services	Routinely provided to all clients	Provided only on an "as-needed" basis
9. Location of behavioral health services	Within the program	Usually in office of contracted practitioner
10. Behavioral health practitioners	Employees or contractors	Usually contracted services; may be contractor from another program or agency
11. Case work services	Social workers, if any, are only part of professional staff	Social workers are primary part of professional staff
12. Staff titles; direct care workers	Behavioral health technicians; psychiatric technicians; psychiatric nurses	House parents; child care workers; teaching parents

Historical Note

Appendix 1 adopted effective July 1, 1997; filed with the Secretary of State's Office May 15, 1997 (Supp. 97-2).

ARTICLE 75. APPEAL AND HEARING PROCEDURES FOR ADVERSE ACTION AGAINST FAMILY FOSTER HOMES, ADOPTION AGENCIES, FAMILY CHILD CARE HOME PROVIDERS, AND PERSONS LISTED ON THE CHILD CARE RESOURCE AND REFERRAL SYSTEM

R6-5-7501. Definitions

The following definitions apply in this Article.

1. "Adverse action" means:

- a. Denial, suspension, or revocation of a child care provider's certification, an adoption agency license, or a foster home license; and
 - b. Exclusion from the child care resource and referral system described in A.R.S. § 41-1967.
2. "Administration" means the Department organizational unit responsible for taking adverse action which is the subject of an appeal. "Administration" includes the Division of Children, Youth, and Families and the Child Care Administration.
 3. "Adoption agency" has the meaning ascribed to "agency" in A.R.S. § 8-101(2).
 4. "Appeals Board" means the Department's independent, quasi-judicial, administrative appellate body, established under A.R.S. § 23-672, and authorized to review administrative decisions issued by hearing officers as prescribed in A.R.S. § 41-1992(D).
 5. "Appellant" means a person who seeks a hearing with the Office of Appeals to challenge adverse action taken by the Department.
 6. "Child Care Administration" means the administrative unit within the Department which is responsible for certification and supervision of family child care home providers and administration of the Child Care Resource and Referral System.
 7. "Child Care Resource and Referral System," which is sometimes referred to as "CCR&R," means the child care provider information system which the Department administers under A.R.S. § 41-1967.
 8. "Department" means the Arizona Department of Economic Security.
 9. "Division of Children, Youth, and Families" means the administrative unit in the Department responsible for licensing foster homes and adoption agencies.
 10. "Family child care home provider" has the meaning prescribed in R6-5-5201(29).
 11. "Foster parent" has the meaning prescribed in A.R.S. § 8-501(A)(5).
 12. "Hearing officer" means an individual appointed by the Department Director under A.R.S. § 41-1992(A) to conduct hearings when an appellant challenges adverse action.
 13. "Licensee" means a person:
 - a. Applying for a license as, or currently licensed as, a foster parent or an adoption agency;
 - b. Applying for certification as, or certified as, a family child care home provider; or
 - c. Listed on the Child Care Resource and Referral System.
 14. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body which includes hearing officers appointed under A.R.S. § 41-1992(A).
 15. "Person" means a natural person, partnership, joint venture, company, corporation, firm, association, society, or institution.
1. An adverse action resulting from a uniform change in federal or state law, unless the Department has misapplied the law to the person seeking the hearing;
 2. Failure to clear a fingerprint check or criminal history check;
 3. Imposition of noncompliance status as prescribed in R6-5-7035;
 4. Imposition of a corrective action plan as prescribed in R6-5-5818;
 5. Removal of a child from a placement;
 6. Failure to enter into a contract with a particular licensee or to place a child with a particular licensee; and
 7. Imposition of a provisional license as prescribed in A.R.S. § 8-509(D).
- C. Findings made in a Child Protective Services ("CPS") investigation are not appealable under this Article. A person may appeal findings made in a CPS investigation of a licensee as prescribed in A.R.S. § 8-546.12.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7503. Computation of Time

- A. In computing any time period,
 1. The term "day" means a calendar day;
 2. The term "work day" means Monday through Friday, excluding Arizona state holidays;
 3. The date of the act, event, notice, or default from which a designated time period begins to run is not counted as part of the time period; and
 4. The last day of the designated time period is counted, unless it is a Saturday, Sunday, or Arizona state holiday.
- B. A document mailed by the Department is deemed given to the addressee on the date mailed to the addressee's last known address. The mailing date is presumed to be the date shown on the document, unless the facts show otherwise.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7504. Request for Hearing: Form; Time Limits; Presumptions

- A. Except as otherwise provided in R6-5-5010(A) and R6-5-5227, a person who wishes to appeal an adverse action shall file a written request for hearing with the Administration within 20 days of the date on the notice or letter advising the person of the adverse action. The Administration shall provide a form for this purpose, and, upon request, shall help an appellant fill out the form.
- B. An appellant shall include the following information in the request for hearing:
 1. Name, address, and telephone number, and, if applicable, telefacsimile number of the person subject to the adverse action;
 2. Identification of the Administration initiating the adverse action;
 3. A description of the adverse action which is the subject of the appeal;
 4. The date of the notice of adverse action; and
 5. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.
- C. The Department shall not deny an appeal solely because the request does not include all the information listed in subsection (B), so long as the request contains sufficient information for the Department to determine the identity of the appellant and the issue on appeal.
- D. A request for hearing is deemed filed:

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7502. Entitlement to a Hearing; Appealable Action

- A. A licensee who disputes adverse action may obtain an administrative hearing to challenge the action as provided in this Article.
- B. The following actions are not appealable:

1. On the mailing date, as shown by the postmark, if sent 1st class mail, postage prepaid, through the United States Postal Service to the Department; or
 2. On the date actually received by the Department, if not mailed as provided in subsection (D)(1).
- E.** The Department may determine that a document was timely filed if the sender of the document can demonstrate that the delay in submission was due to any of the following reasons:
1. Department error or misinformation,
 2. Delay or other action by the United States Postal Service, or
 3. Delay caused by the appellant changing mailing addresses at a time when the appellant had no duty to notify the Administration of the change.
- F.** When the Office of Appeals receives a request for hearing that was not timely filed, the Office of Appeals shall schedule a hearing to determine whether the delay in submission is excused as provided in subsection (E).
- G.** An appellant whose appeal is denied as untimely may petition for review as provided in R6-5-7518.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7505. Administration: Transmittal of Appeal

An Administration that receives a request for appeal shall send the Office of Appeals a copy of the request and the adverse action notice within 2 work days of receipt of the request.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7506. Stay of Adverse Action Pending Appeal

- A.** The Department shall not carry out the adverse action until the time for appeal has run, except as otherwise provided in subsection (C), and in the following circumstances:
1. The appellant expressly waives the delay of action; or
 2. The appellant
 - a. Is subject to the same adverse action for reasons other than those that are the subject of the current adverse action notice, and
 - b. Received notice of and failed to timely appeal the adverse action being imposed for reasons other than those that are the subject of the current notice.
- B.** If an appellant timely appeals an adverse action as provided in R6-5-7504, the Department shall not carry out the adverse action until a hearing officer issues a decision affirming the adverse action, except as otherwise provided in subsection (C), and in the following circumstances:
1. The appellant expressly waives the delay of action;
 2. The appellant
 - a. Is subject to the same adverse action for reasons other than those that are the subject of the current adverse action notice; and
 - b. Received notice of and failed to timely appeal the adverse action being imposed for reasons other than those that are the subject of the current notice;
 3. The appeal challenges an action that is not appealable according to R6-5-7502(B);
 4. The appellant withdraws the request for hearing; or
 5. The appellant fails to appear for the hearing.
- C.** The Department may summarily suspend a license, a certificate, or registration on the CCR & R, as provided in A.R.S. § 41-1064(C).

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7507. Hearings: Location; Notice; Time

- A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing or permit a witness to appear telephonically.
- B.** Unless the parties stipulate to another hearing date, the Office of Appeals shall schedule the hearing as follows:
1. For appeals of adverse action against a foster parent, within 10 days of the date the Department receives the appellant's request for hearing, as required by A.R.S. § 8-506; and
 2. For all other appeals, no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C.** The Office of Appeals shall mail a notice of hearing to all interested parties at least 20 days before the scheduled hearing date, except where the hearing is scheduled within the 10-day period specified in subsection (B)(1). For hearings scheduled within the 10-day period, the Office of Appeals shall notify the parties telephonically and send written notice at the earliest date practicable.
- D.** The notice of hearing shall be in writing and shall include the following information:
1. The date, time, and place of the hearing;
 2. The name of the hearing officer;
 3. A general statement of the issues involved in the case;
 4. A statement listing the parties' rights, as specified in R6-5-7511; and
 5. A general statement of the hearing procedures.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7508. Rescheduling the Hearing

- A.** An appellant may ask for postponement of a hearing by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed. Good cause exists where circumstances beyond the appellant's reasonable control make it difficult or burdensome for the appellant to attend the hearing on the scheduled date.
- B.** Except in emergency circumstances, the appellant shall ensure that the Office of Appeals receives the request for postponement at least 5 work days before the scheduled hearing date. The Office of Appeals may deny an untimely request. Emergency circumstances mean circumstances
1. Beyond the reasonable control of the party;
 2. Which did not arise until after the 5-day period; and
 3. Which could not reasonably have been anticipated.
- C.** When the Office of Appeals reschedules a hearing under this Section or R6-5-7514, the Office of Appeals shall notify all interested parties, in writing, prior to the hearing. The 20-day notice requirement in R6-5-7507(C) does not apply to rescheduled hearings.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7509. Hearing Officer: Duties and Qualifications

- A.** An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
1. Administer oaths and affirmations;
 2. Regulate and conduct hearings in an orderly and dignified manner that avoids unnecessary repetition and affords due process to all participants;
 3. Ensure that all relevant issues are considered;
 4. Exclude irrelevant evidence from the record;
 5. Request, receive, and incorporate into the record, relevant evidence;

6. Upon compliance with the requirements of R6-5-7511, subpoena witnesses or documents needed for the hearing;
7. Open, conduct, and close the hearing;
8. Rule on the admissibility of evidence offered at the hearing;
9. Direct the order of proof at the hearing;
10. Upon the request of a party, or on the hearing officer's own motion, and for good cause shown, take action the hearing officer deems necessary for the proper disposition of an appeal, including the following:
 - a. Disqualify himself or herself from the case;
 - b. Continue the hearing to a future date or time;
 - c. Prior to the entry of a final decision, reopen the hearing to take additional evidence;
 - d. Deny or dismiss an appeal or request for hearing in accordance with the provisions of this Article; and
 - e. Exclude non-party witnesses from the hearing room; and
11. Issue a written decision resolving the appeal.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7510. Change of Hearing Officer; Challenges for Cause

- A. A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit which shall include:
 1. The case name and number;
 2. The hearing officer assigned to the case; and
 3. The name and signature of the party requesting the change.
- B. The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least 5 days before the scheduled hearing date.
- C. Unless a party is challenging a hearing officer for cause as provided in subsection (D), a party may request only 1 change of hearing officer.
- D. At any time before a hearing officer renders a decision, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- E. A party who brings a challenge for cause shall file a request as provided in subsection (A) and send a copy of the request to all other parties. The request shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- F. The hearing officer being challenged for cause may hear and decide the challenge unless:
 1. A party specifically requests that another hearing officer make the determination, or
 2. The assigned hearing officer disqualifies himself or herself from the decision.
- G. The Office of Appeals shall transfer the case to another hearing officer when:
 1. A party requests a change as provided in subsections (A) through (C), or
 2. A hearing officer is removed for cause as provided in subsections (D) through (F).
- H. The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7511. Subpoenas

- A. A party who wishes to have a witness testify at a hearing, or to offer a particular document or item in evidence, shall 1st attempt to obtain the witness or evidence by voluntary means. Department documents are available to the appellant as prescribed in R6-5-7512(2).

- B. If the party cannot procure the voluntary attendance of the witness or production of the evidence, the party may ask the hearing officer assigned to the case to issue a subpoena for a witness, document, or other physical evidence.
- C. The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
 1. The case name and number;
 2. The name of the party requesting the subpoena;
 3. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony;
 4. A description of any documents or physical evidence to be subpoenaed, including the title, appearance, and location of the item, and the name and address of the person in possession of the item; and
 5. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D. A party who wants a subpoena shall ask for the subpoena at least 5 days before the scheduled hearing date.
- E. The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is cumulative.
- F. The Office of Appeals shall prepare all subpoenas and serve them by certified mail, return receipt requested, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their state employment, by regular mail, hand-delivery, or state courier service.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7512. Parties' Rights

A party to a hearing has the following rights:

1. The right to request a postponement of the hearing, as provided in this Article;
2. The right to copy, before or during the hearing, any documents in the Department's file on the appellant, and documents the Department may use at the hearing, except documents shielded by the attorney-client or work-product privilege, or as otherwise prohibited by federal or state confidentiality laws;
3. The right to request a change of hearing officer as provided in A.R.S. § 41-1992(B) and R6-5-7510;
4. The right to request subpoenas for witnesses and evidence as provided in R6-5-7511;
5. The right to present the case in person or through an authorized representative, subject to any limitations prescribed in the Rules of the Supreme Court of Arizona, Rule 31(a);
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, as provided in R6-5-7518 and R6-5-7520, if dissatisfied with an Office of Appeals' decision.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7513. Withdrawal of an Appeal

- A. An appellant may withdraw an appeal at any time prior to the scheduled hearing by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose. An appellant may also orally withdraw an appeal on the open record.
- B. Upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or a statement of withdrawal made on the record, the Office of Appeals shall dismiss the appeal.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7514. Failure to Appear; Default; Reopening

- A.** If an appellant fails to appear at the scheduled hearing, the hearing officer shall:
 - 1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
 - 2. Rule summarily on the available record; or
 - 3. Adjourn the hearing to a later date and time.
- B.** The hearing officer shall not enter a default if the appellant notifies the Office of Appeals, before the scheduled time of hearing, that the appellant cannot attend the hearing, due to good cause, and still desires a hearing or wishes to have the matter considered on the available record.
- C.** No later than 10 days after a scheduled hearing date at which a party failed to appear, the non-appearing party may file a request to reopen the proceedings. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
- D.** The hearing officer may decide the issue of good cause on the available record or may set the matter for briefing or for hearing.
- E.** If the hearing officer finds that the party had good cause for non-appearance, the hearing officer shall reopen the proceedings and schedule a de novo hearing with notice to all interested parties as prescribed in R6-5-7508(C).
- F.** Good cause exists where the non-appearing party demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" has the meaning applied to "excusable neglect" as that term is used in Arizona Rules of Civil Procedure, Rule 60(c).

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7515. Hearing Proceedings

- A.** The hearing is a de novo proceeding. The Department has the initial burden of going forward with evidence to support the adverse action being appealed.
- B.** To prevail, the appellant shall prove, by a preponderance of the evidence, that the Department's action was unauthorized, unlawful, or an abuse of discretion.
- C.** The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 23-674(D).
- D.** The Office of Appeals shall tape record all hearings or record the hearing by other stenographic means. The Department need not transcribe the proceedings unless a transcription is required for further administrative or judicial proceedings.
- E.** The Office of Appeals charges a fee of 15¢ per page for providing a transcript. A party may obtain a waiver of the fee by submitting an affidavit stating that the party cannot afford to pay for the transcript.
- F.** A party may, at his or her own expense, arrange to have a court reporter present to transcribe the hearing.
- G.** The hearing officer shall call the hearing to order and dispose of any pre-hearing motions or issues.
- H.** With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- I.** Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence. Unless the hearing officer allows a longer period of time, a statement shall not exceed 3 minutes.
- J.** A party may testify, present evidence, and cross-examine adverse witnesses. The hearing officer may also take witness

testimony or admit documentary or physical evidence on his or her own motion.

- K.** The hearing officer shall keep a complete record of all proceedings in connection with an appeal and shall exclude any irrelevant evidence.
- L.** The hearing officer may require the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7516. Hearing Decision

- A.** No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing, and the applicable law. The 60-day time limit is extended for any delay caused by the appellant.
- B.** The hearing decision shall include:
 - 1. Findings of fact concerning the issue on appeal;
 - 2. Citations to the law and authority applicable to the issue on appeal;
 - 3. A statement of the conclusions derived from the controlling facts and law, and the reasons for the conclusions;
 - 4. The name of the hearing officer;
 - 5. The date of the decision; and
 - 6. A statement of further appeal rights and the time period for exercising those rights.
- C.** The Office of Appeals shall mail a copy of the decision to each party's representative, or to the party if the party is unrepresented.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7517. Effect of the Decision

- A.** If the hearing officer affirms the adverse action against the appellant, the adverse action is effective on the mailing date of the hearing officer's decision. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
- B.** If the hearing officer reverses the Administration's decision to take adverse action, the Administration shall not take the action unless and until the Appeals Board or Arizona Court of Appeals issues a decision affirming the adverse action.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7518. Further Administrative Appeal

- A.** A party may appeal an adverse decision issued by a hearing officer to the Department's Appeals Board, as prescribed in A.R.S. § 41-1992(C) and (D), by filing a written petition for review with the Office of Appeals within 15 days of the mailing date of the hearing officer's decision.
- B.** The petition for review shall:
 - 1. Be in writing,
 - 2. Describe why the party disagrees with the hearing officer's decision, and
 - 3. Be signed and dated by the party or the party's representative.
- C.** The party petitioning for review shall mail a copy of the petition to all other parties.
- D.** The Office of Appeals shall have the proceedings of the hearing below transcribed for the Appeals Board.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7519. Appeals Board

- A. The Appeals Board shall conduct proceedings in accordance with A.R.S. § 41-1992(D) and A.R.S. § 23-672.
- B. Following notice to the parties, the Appeals Board may receive additional evidence or hold a hearing if the Appeals Board finds that additional information would help in deciding the appeal. The Board may also remand the case to the Office of Appeals for rehearing, specifying the nature of the additional evidence required, or any further issues to be considered.
- C. The Appeals Board shall decide the appeal based solely on the record of proceedings before the hearing officer and any further evidence or testimony presented to the Board.
- D. The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision. The Board's decision shall specify the parties' rights to further review and the time for filing a request for review.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

R6-5-7520. Judicial Review

Any party adversely affected by an Appeals Board decision may seek judicial review as prescribed in A.R.S. § 41-1993.

Historical Note

Adopted effective June 4, 1998 (Supp. 98-2).

ARTICLE 76. REPEALED**R6-5-7601. Repealed****Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7602. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7603. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7604. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-7605. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7606. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7607. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7608. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7609. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7610. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7611. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7612. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7613. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7614. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7615. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7616. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7617. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7618. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7619. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7620. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7621. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7622. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7623. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7624. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7625. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7626. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7627. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7628. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7629. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7630. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7631. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7632. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7633. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7634. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7635. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7636. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7637. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7638. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-7639. Repealed**Historical Note**

Adopted effective September 16, 1976 (Supp. 76-4).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 77. REPEALED

Former Article 77 consisting of Sections R6-5-7701 through R6-5-7704 repealed effective November 8, 1982.

ARTICLE 78. REPEALED

Former Article 78 consisting of Sections R6-5-7801 through R6-5-7804 repealed effective November 8, 1982.

ARTICLE 79. REPEALED

Former Article 79 consisting of Sections R6-5-7901 through R6-5-7913 repealed effective November 8, 1982.

ARTICLE 80. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**R6-5-8001. Goals**

Interstate services to children are provided to:

1. Achieve or maintain self-sufficiency including reduction or prevention of dependency.
2. Prevent or remedy abuse, neglect or exploitation of children, or preserve, rehabilitate or reunite families.
3. Prevent or reduce inappropriate institutional care.
4. Secure appropriate institutional care.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8002. Objectives

Purpose of the Interstate Compact on the Placement of Children is to:

1. Promote cooperation of the member states in the interstate placement of children.
2. Establish procedures for the placement of children between member states.
3. Assure that the jurisdictional arrangements are made for the care of children who are placed across state lines.
4. Allocate legal and administrative responsibility during the period of an interstate placement.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8003. Authority

A.R.S. §§ 8-503(6) and 8-548 through 8-548.06.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8004. Definitions

- A. "Child". Any person under the age of 18.
- B. "Compact". The Interstate Compact on the Placement of Children.
- C. "Compact administrator". The Department employee who shall be general coordinator of activities under the compact in the state's jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of the compact.
- D. "Compact state". A state which is a member of the Interstate Compact on the Placement of Children.
- E. "Department". The Arizona State Department of Economic Security.
- F. "Interstate placement". Any movement of a child from one state to another state for the purpose of establishing a suitable living environment and providing necessary care.
- G. "Intra-state placement". The placement of a child within the state by an agency of that state.
- H. "Placement". The arrangement for the care of a child in a foster home, relative home or adoptive home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic, or any institution primarily educational in character or any hospital or other medical facility.
- I. "Receiving state". The state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private person or agencies and whether for placement with state or local public authorities or for placement with private agencies or persons.
- J. "Sending agency"
 - 1. A compact member state, officer or employee thereof,
 - 2. A subdivision of a member state, officer or employee thereof,
 - 3. A court of a member state, or,
 - 4. A person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another member state.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8005. Placement agreement

- A. Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state.
- B. No person, court or public or private agency in a compact shall place a child in another compact state until the Compact Administrator in the receiving state has notified the Compact Administrator in the sending state on a prescribed form that such placement does not appear to be contrary to the interests of the child and does not violate any applicable laws of the receiving state.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8006. Financial responsibility

The sending person, court or public or private agency shall be held financially responsible for:

- 1. Sending the child to the receiving state.
- 2. Returning the child if such should be required by the receiving state.

- 3. Support, care, maintenance and treatment of the child during the period of placement.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8007. Eligibility

- A. Interstate Compact statute applies:
 - 1. To the placement of children in another compact state by an agency, court or person which has care or custody of the children.
 - 2. To the placement of foreign-born children who are brought under the jurisdiction of a compact state by an international child placing agency.
- B. Interstate Compact statute does not apply:
 - 1. When a child is sent or brought into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and is left with any such relative or non-agency guardian in the receiving state.
 - 2. When a child is placed in an institution caring for the mentally ill, mentally defective or epileptic or in any institution primarily educational in character or in any hospital or other medical facility.
 - 3. When a child is placed in a receiving state under the provisions of any other interstate compact to which both the sending and the receiving states are parties or any other agreement between the states which has the force of law.
 - 4. To the placement of children into and out of the United States when the other jurisdiction involved is a foreign country.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8008. Placement approval

Approval must be obtained from the Compact Administrators in both the sending and receiving states prior to the placement of a child in another compact member state.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8009. Case management

- A. Records and reports. Records shall be established and maintained and reports shall be submitted as prescribed by the Department.
- B. Confidentiality. The rules and regulations of the Department for securing and using confidential information concerning the client will be followed. Refer to Title 6, Chapter 5, Article 23 (Safeguarding of Records and Information).
- C. Civil rights. Refer to Title 6, Chapter 5, Article 26 (Civil Rights).

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

R6-5-8010. Terminating the service

The sending agency shall retain jurisdiction over a child placed in another state until responsibility for the child is discharged with the concurrence of the authority in the receiving state.

Historical Note

Adopted effective September 16, 1976 (Supp. 76-4).

ARTICLE 81. REPEALED

Former Article 81 consisting of Sections R6-5-8101 through R6-5-8104 repealed effective November 8, 1982.

ARTICLE 82. REPEALED

Former Article 82 consisting of Sections R6-5-8201 through R6-5-8204 repealed effective November 8, 1982.

ARTICLE 83. REPEALED**R6-5-8301. Repealed****Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8302. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8303. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8304. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8305. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8306. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-3-8307. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8308. Repealed**Historical Note**

Adopted effective January 18, 1977 (Supp. 77-1).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 84. REPEALED

Former Article 84 consisting of Sections R6-5-8401 through R6-5-8404 repealed effective November 8, 1982.

ARTICLE 85. REPEALED

Former Article 85 consisting of Sections R6-5-8501 through R6-5-8508 repealed effective November 8, 1982.

ARTICLE 86. REPEALED**R6-5-8601. Repealed****Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1).
Former Section R6-5-8601 repealed, new Section R6-5-8601 adopted effective March 8, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8602. Repealed**Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1).
Former Section R6-5-8602 repealed, new Section R6-5-8602 adopted effective March 8, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8603. Repealed**Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1).
Former Section R6-5-8603 repealed, new Section R6-5-8603 adopted effective March 8, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8604. Repealed**Historical Note**

Adopted effective February 24, 1977 (Supp. 77-1).
Former Section R6-5-8604 repealed, new Section R6-5-8604 adopted effective March 8, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 87. REPEALED**R6-5-8701. Repealed****Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8702. Repealed**Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8703. Repealed**Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-8704. Repealed**Historical Note**

Adopted effective March 9, 1979 (Supp. 79-2). Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 88. REPEALED

Former Article 88 consisting of Sections R6-5-8801 through R6-5-8804 repealed effective November 8, 1982.

ARTICLE 89. RESERVED**ARTICLE 90. RESERVED****ARTICLE 91. REPEALED****R6-5-9101. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9102. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9103. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9104. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 92. REPEALED

R6-5-9201. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9202. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9203. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-9204. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 93. REPEALED

Former Article 93 consisting of Sections R6-5-9301 through R6-5-9304 repealed effective November 8, 1982.

ARTICLE 94. REPEALED

Former Article 94 consisting of Sections R6-5-9401 through R6-5-9404 repealed effective November 8, 1982.

ARTICLE 95. REPEALED

Former Article 95 consisting of Sections R6-5-9501 through R6-5-9504 repealed effective November 8, 1982.

ARTICLE 96. REPEALED

Former Article 96 consisting of Sections R6-5-9601 through R6-5-9604 repealed effective November 8, 1982.

ARTICLE 97. REPEALED

Former Article 97 consisting of Sections R6-5-9701 through R6-5-9704 repealed effective November 8, 1982.

ARTICLE 98. REPEALED

Former Article 98 consisting of Sections R6-5-9801 through R6-5-9804 repealed effective November 8, 1982.

ARTICLE 99. REPEALED

Former Article 99 consisting of Sections R6-5-9901 through R6-5-9904 repealed effective November 8, 1982.

ARTICLE 100. REPEALED

Former Article 100 consisting of Sections R6-5-10001 through R6-5-10004 repealed effective November 8, 1982.

ARTICLE 101. REPEALED

Former Article 101 consisting of Sections R6-5-10101 through R6-5-10104 repealed effective November 8, 1982.

ARTICLE 102. REPEALED

Former Article 102 consisting of Sections R6-5-10201 through R6-5-10204 repealed effective November 8, 1982.

ARTICLE 103. REPEALED

Former Article 103 consisting of Sections R6-5-10301 through R6-5-10304 repealed effective November 8, 1982.

ARTICLE 104. REPEALED**R6-5-10401. Repealed****Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10402. Repealed**Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10403. Repealed**Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10404. Repealed**Historical Note**

Adopted effective March 19, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 105. REPEALED**R6-5-10501. Repealed****Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10502. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10503. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

R6-5-10504. Repealed**Historical Note**

Adopted effective March 12, 1979 (Supp. 79-2).
Repealed effective December 17, 1993 (Supp. 93-4).

ARTICLE 106. REPEALED

Former Article 106 consisting of Sections R6-5-10601 through R6-5-10604 repealed effective November 8, 1982.

ARTICLE 107. REPEALED

Former Article 107 consisting of Sections R6-5-10701 through R6-5-10704 repealed effective November 8, 1982.

ARTICLE 108. REPEALED

Former Article 108 consisting of Sections R6-5-10801 through R6-5-10804 repealed effective November 8, 1982.

ARTICLE 109. REPEALED

Former Article 109 consisting of Sections R6-5-10901 through R6-5-10904 repealed effective November 8, 1982.

ARTICLE 110. REPEALED

Former Article 110 consisting of Sections R6-5-11001 through R6-5-11004 repealed effective November 8, 1982.

TITLE 6. ECONOMIC SECURITY**CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES**(Authority: A.R.S. § 41-1954 *et seq.*)

Editor's Note: Sections R6-6-1004.01 through R6-6-1004.05, R6-6-1104.01 through R6-6-1104.05, and R6-6-1504.01 through R6-6-1504.05 were published with incorrect effective dates in Supp. 97-4. They have been corrected to reflect the effective date as established by the Department (Supp. 98-1).

Sections of this Chapter were amended, adopted, repealed, and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9 and Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules. Because these rules are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R6-6-101 through R6-6-107, adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 1, consisting of Sections R6-6-101 through R6-6-121, renumbered to Article 2, Sections R6-6-201 through R6-6-221, effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 1 consisting of Sections R6-6-101 through R6-6-121 adopted as permanent rules effective September 18, 1987.

New Article 1 consisting of Sections R6-6-101 through R6-6-121 adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 1 consisting of Sections R6-6-101 through R6-6-115 repealed effective May 2, 1983.

Section

R6-6-101.	Definitions
R6-6-102.	Rights of Individuals with Developmental Disabilities
R6-6-103.	Confidentiality Officer
R6-6-104.	Access to Personally Identifiable Information
R6-6-105.	Consent for Release of Information
R6-6-106.	Violations and Penalties
R6-6-107.	Least Restrictive Environment
R6-6-108.	Safe and Humane Environment
R6-6-109.	Renumbered
R6-6-110.	Renumbered
R6-6-111.	Renumbered
R6-6-112.	Renumbered
R6-6-113.	Renumbered
R6-6-114.	Renumbered
R6-6-115.	Renumbered
R6-6-116.	Renumbered
R6-6-117.	Renumbered
R6-6-118.	Renumbered
R6-6-119.	Renumbered
R6-6-120.	Renumbered
R6-6-121.	Renumbered

ARTICLE 2. REPEALED

Article 2, consisting of Sections R6-6-201 through R6-6-221, repealed effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Article 2, consisting of Sections R6-6-201 through R6-6-221, renumbered from Article 1, Sections R6-6-101 through R6-6-121,

effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 2, consisting of Sections R6-6-201 through R6-6-204, repealed effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 2, consisting of Sections R6-6-201 through R6-6-204, adopted effective May 2, 1983.

**ARTICLE 3. ELIGIBILITY FOR DEVELOPMENTAL
DISABILITIES SERVICES**

New Article 3 consisting of Sections R6-6-301 and R6-6-302 adopted effective March 30, 1983.

Former Article 3 consisting of Sections R6-6-301 through R6-6-303 repealed effective March 30, 1983.

Section

R6-6-301.	Eligibility for Services
R6-6-302.	Guidelines for Determining Developmental Disabilities
R6-6-303.	Eligibility Review

ARTICLE 4. APPLICATION

Article 4, consisting of Sections R6-6-401 through R6-6-405, adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 4, consisting of Sections R6-6-401 through R6-6-414 repealed effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

New Article 4, consisting of Sections R6-6-401 through R6-6-414, adopted effective February 2, 1989.

Former Article 4, consisting of Sections R6-6-401 through R6-6-408, repealed effective March 7, 1983.

Section

R6-6-401.	Application for Admission to Services
R6-6-402.	Consent
R6-6-403.	Referrals from Juvenile Court
R6-6-404.	Eligibility under ALTCS
R6-6-405.	Documentation and Verification
R6-6-406.	Repealed
R6-6-407.	Repealed
R6-6-408.	Repealed
R6-6-409.	Repealed
R6-6-410.	Repealed
R6-6-411.	Repealed
R6-6-412.	Repealed
R6-6-413.	Repealed
R6-6-414.	Repealed

**ARTICLE 5. ADMISSION/REDETERMINATION/
TERMINATION**

Article 5, consisting of Sections R6-6-501 through R6-6-505, adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Former Article 5 consisting of Sections R6-6-501 through R6-6-503 repealed effective February 2, 1989.

Article 5 consisting of Sections R6-6-501 through R6-6-503 adopted effective December 14, 1984.

Section

- R6-6-501. Admission
- R6-6-502. Emergency Admission to Services
- R6-6-503. Redeterminations
- R6-6-504. Termination of Services
- R6-6-505. Continuation of Services

ARTICLE 6. PROGRAM SERVICES

Article 6, consisting of Sections R6-6-601 through R6-6-607, adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Section

- R6-6-601. Case Management
- R6-6-602. Individual Service and Program Plan
- R6-6-603. Assignment to Services
- R6-6-604. Periodic Evaluations
- R6-6-605. Transfer to Another Service or Changes in Service
- R6-6-606. Consent of the Responsible Person
- R6-6-607. Renumbered

**ARTICLE 7. LICENSURE OF COMMUNITY
RESIDENTIAL SETTINGS**

Article 7, consisting of Sections R6-6-701 through R6-6-719 adopted effective August 30, 1994, pursuant to an exemption from the procedures of the Arizona Administrative Procedure Act (Supp. 94-3).

Former Article 7 consisting of Sections R6-6-701 and R6-6-702 repealed effective February 2, 1989.

Article 7 consisting of Sections R6-6-701 and R6-6-702 adopted effective August 8, 1978.

Section

- R6-6-701. Applicability
- R6-6-702. Settings Requiring Licensure
- R6-6-703. Application for Initial License
- R6-6-704. Application for License Renewal
- R6-6-705. Issuing a Regular License
- R6-6-706. Issuing a Provisional License
- R6-6-707. Amending a License
- R6-6-708. Maintenance of a License
- R6-6-709. Complaints
- R6-6-710. Inspections, Monitoring, and Investigations of Community Residential Settings
- R6-6-711. Denial, Suspension, or Revocation of Licenses
- R6-6-712. Appeals
- R6-6-713. Emergency Procedures and Evacuation Drills
- R6-6-714. Fire Safety Requirements in Community Residential Settings
- R6-6-715. Safe and Functioning Systems Requirements
- R6-6-716. Clean and Sanitary Conditions
- R6-6-717. Vehicle Safety
- R6-6-718. Hazards and Dangers
- R6-6-719. First-aid Equipment and Supplies

**ARTICLE 8. PROGRAMMATIC STANDARDS AND
CONTRACT MONITORING FOR COMMUNITY
RESIDENTIAL SETTINGS**

Article 8, consisting of Sections R6-6-801 through R6-6-811, adopted effective August 30, 1994, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 94-3).

Section

- R6-6-801. Applicability
- R6-6-802. Compliance
- R6-6-803. General Responsibilities of the Licensee
- R6-6-804. Rights of Clients
- R6-6-805. Program Plans
- R6-6-806. Health
- R6-6-807. Records
- R6-6-808. Staff Qualifications, Training, and Responsibilities
- R6-6-809. Policies and Procedures
- R6-6-810. Consent for Release of Personally Identifiable Information
- R6-6-811. Exemption

ARTICLE 9. MANAGING INAPPROPRIATE BEHAVIORS**Section**

- R6-6-901. Applicability
- R6-6-902. Prohibitions
- R6-6-903. Program Review Committee (PRC)
- R6-6-904. ISPP Team Responsibilities
- R6-6-905. Monitoring Behavior Treatment Plans
- R6-6-906. Training
- R6-6-907. Sanctions
- R6-6-908. Emergency Measures
- R6-6-909. Behavior-modifying Medications
- R6-6-910. Renumbered

**ARTICLE 10. CHILD DEVELOPMENTAL FOSTER HOME
LICENSE**

Article 10, consisting of Sections R6-6-1001 through R6-6-1019, adopted effective August 30, 1994, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 94-3).

Section

- R6-6-1001. Application for License
- R6-6-1002. Issuing an Initial License
- R6-6-1003. Issuing a Renewal License
- R6-6-1004. Issuing a Provisional License
- R6-6-1004.01. Time-Frame for Granting or Denying a License
- R6-6-1004.02. Administrative Completeness and Substantive Review Process
- R6-6-1004.03. Contents of a Complete Application Package - Initial License
- R6-6-1004.04. Contents of a Complete Application Package - Renewal License
- R6-6-1004.05. Contents of a Complete Request for an Amended License
- R6-6-1005. Training Requirements for Child Developmental Home Foster Parents
- R6-6-1006. Foster Parent Responsibilities in Child Developmental Foster Homes
- R6-6-1007. Behavior Management
- R6-6-1008. Sleeping Arrangements
- R6-6-1009. Notification Requirements
- R6-6-1010. Recordkeeping
- R6-6-1011. Health and Safety Standards in Child Developmental Foster Homes

Department of Economic Security - Developmental Disabilities

- R6-6-1012. Transportation
- R6-6-1013. Dual Licensure or Certification of Child Developmental Foster Homes
- R6-6-1014. Rights of Children in Child Developmental Foster Homes
- R6-6-1015. Exemption
- R6-6-1016. Home Inspections and Monitoring
- R6-6-1017. Complaints
- R6-6-1018. Denial, Suspension, and Revocation of Child Developmental Foster Home Licenses
- R6-6-1019. Appeals

ARTICLE 11. ADULT DEVELOPMENTAL HOME LICENSE

Article 11, consisting of Sections R6-6-1101 through R6-6-1119, adopted effective August 30, 1994, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 94-3).

Former Article 11 consisting of Sections R6-6-1101 through R6-6-1103 repealed effective September 18, 1987.

Article 11 consisting of Sections R6-6-1101 through R6-6-1104 repealed as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Section R6-6-1104 repealed effective February 3, 1983.

Article 11 consisting of Sections R6-6-1101 through R6-6-1104 adopted effective March 17, 1981.

Section

- R6-6-1101. Application for License
- R6-6-1102. Issuing an Initial License
- R6-6-1103. Issuing a Renewal License
- R6-6-1104. Issuing a Provisional License
- R6-6-1104.01. Time-Frame for Granting or Denying a License
- R6-6-1104.02. Administrative Completeness and Substantive Review Process
- R6-6-1104.03. Contents of a Complete Application Package - Initial License
- R6-6-1104.04. Contents of a Complete Application Package - Renewal License
- R6-6-1104.05. Contents of a Complete Request for an Amended License
- R6-6-1105. Training Requirements for Adult Developmental Home Providers
- R6-6-1106. Adult Developmental Home Licensee Responsibility
- R6-6-1107. Behavior Management
- R6-6-1108. Sleeping Arrangements
- R6-6-1109. Notification Requirements
- R6-6-1110. Recordkeeping
- R6-6-1111. Health and Safety Standards in an Adult Developmental Home
- R6-6-1112. Transportation
- R6-6-1113. Dual Licensure of Adult Developmental Homes
- R6-6-1114. Client Rights in Adult Developmental Homes
- R6-6-1115. Exemption
- R6-6-1116. Home Inspections and Monitoring
- R6-6-1117. Complaints
- R6-6-1118. Denial, Suspension, and Revocation of Adult Developmental Home Licenses
- R6-6-1119. Appeals

ARTICLE 12. COST OF CARE PORTION

Section

- R6-6-1201. Cost of Care Portion for Services

- R6-6-1202. Determination of the Cost of Care Portion for Services from a Minor Client's Parents
- R6-6-1203. Determination of the Cost of Care Portion for Services from a Client's Estate or Trust
- R6-6-1204. Special Provisions for Cost of Care Portion from Clients Receiving Residential Services
- R6-6-1205. Billing for Cost of Care Portion
- R6-6-1206. Review and Appeal
- Appendix A. Cost of Care Portion Table

ARTICLE 13. COORDINATION OF BENEFITS; THIRD-PARTY PAYMENTS

Article 13, consisting of Sections R6-6-1301 through R6-6-1306, adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Section

- R6-6-1301. Information Required at Initial Application and Redetermination
- R6-6-1302. Assignment of Rights to Benefits
- R6-6-1303. Collections of Health Insurance
- R6-6-1304. Monitoring and Compliance
- R6-6-1305. Notification of Liens
- R6-6-1306. Renumbered

ARTICLE 14. GUARDIANSHIP AND CONSERVATORSHIP

Section

- R6-6-1401. Guardianship

ARTICLE 15. STANDARDS FOR CERTIFICATION OF HOME AND COMMUNITY-BASED SERVICE (HCBS) PROVIDERS

Article 15, consisting of Sections R6-6-1501 through R6-6-1533, adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

Article 15, consisting of Sections R6-6-1501 and R6-6-1502, repealed effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Article 15, consisting of Sections R6-6-1501 and R6-6-1502, adopted effective May 12, 1982.

Section

- R6-6-1501. Definitions
- R6-6-1502. Applicability
- R6-6-1503. Requirement for an HCBS Certificate
- R6-6-1504. Application for an Initial HCBS Certificate
- R6-6-1504.01. Time-Frame for Granting or Denying a Certificate
- R6-6-1504.02. Administrative Completeness and Substantive Review Process
- R6-6-1504.03. Contents of a Complete Application Package - Initial Certificate
- R6-6-1504.04. Contents of a Complete Application Package - Renewal Certificate
- R6-6-1504.05. Contents of a Complete Request for an Amended Certificate
- R6-6-1505. Setting Requirements for HCBS Service Providers
- R6-6-1506. Fingerprinting Requirements
- R6-6-1507. Application for an HCBS Certificate Renewal
- R6-6-1508. Issuing an HCBS Certificate
- R6-6-1509. Duration of an HCBS Certificate
- R6-6-1510. Amending an HCBS Certificate
- R6-6-1511. Maintenance of an HCBS Certificate
- R6-6-1512. Compliance Audit of HCBS Service Providers
- R6-6-1513. Complaints
- R6-6-1514. Denial, Suspension, or Revocation of an HCBS Certificate

- R6-6-1515. Corrective Action Plan
- R6-6-1516. Right to Administrative Review
- R6-6-1517. Reporting Obligations of HCBS Service Providers
- R6-6-1518. Rights of Clients
- R6-6-1519. Records
- R6-6-1520. Basic Qualifications, Training, and Responsibilities
- R6-6-1521. Additional Qualifications for Attendant Care Services
- R6-6-1522. Additional Qualifications for Day Treatment and Training Services
- R6-6-1523. Additional Qualifications for Habilitation Services
- R6-6-1524. Additional Qualifications for Home Health Aide Services
- R6-6-1525. Additional Qualifications for Home Health Nurse Services
- R6-6-1526. Additional Qualifications for Hospice Services
- R6-6-1527. Additional Qualifications for Housekeeping Services
- R6-6-1528. Additional Qualification for Occupational Therapy Services
- R6-6-1529. Additional Qualifications for Personal Care Service
- R6-6-1530. Additional Qualifications for Physical Therapy Services
- R6-6-1531. Additional Qualifications for Respiratory Therapy Services
- R6-6-1532. Additional Qualifications for Respite Services
- R6-6-1533. Additional Qualifications for Speech/Hearing Therapy Services

ARTICLE 16. ABUSE AND NEGLECT

Article 16 consisting of Sections R6-6-1601 through R6-6-1603 adopted effective June 23, 1981.

Section

- R6-6-1601. Reporting Procedures
- R6-6-1602. Investigation
- R6-6-1603. Medical Evaluation

ARTICLE 17. HUMAN RIGHTS COMMITTEES

Article 17 consisting of Sections R6-6-1701 through R6-6-1706 adopted effective April 30, 1981.

Section

- R6-6-1701. Establishment of Committees
- R6-6-1702. Membership
- R6-6-1703. Procedure
- R6-6-1704. Committee Responsibilities
- R6-6-1705. Staff
- R6-6-1706. Access to Records

ARTICLE 18. ADMINISTRATIVE REVIEW

Article 18 consisting of Sections R6-6-1801 through R6-6-1804 adopted effective March 8, 1983.

Article 18, consisting of Sections R6-6-1801 through R6-6-1804 repealed effective August 29, 1991 (Supp. 91-3).

Article 18, consisting of Sections R6-6-1801 through R6-6-1806 adopted effective August 29, 1991 (Supp. 91-3).

Section

- R6-6-1801. Right to Review: Notice
- R6-6-1802. General Procedures
- R6-6-1803. Procedures for Grievances Related to Licenses

- R6-6-1804. Procedures for Grievances by DD/ALTCS Clients and ALTCS Service Providers
- R6-6-1806. Appeals and Hearings
- R6-6-1806. Renumbered

ARTICLE 19. CONTRACTS

Article 19, consisting of Sections R6-6-1901 through R6-6-1912, adopted effective April 17, 1996 (Supp. 96-2).

Article 19, consisting of Sections R6-6-1901 through R6-6-1911, adopted again as emergency rules effective March 12, 1996 (Supp. 96-1).

Article 19, consisting of Sections R6-6-1901 through R6-6-1911, adopted as emergency rules effective September 13, 1995 (Supp. 95-3).

Article 19, consisting of Sections R6-6-1901 and R6-6-1902 repealed effective August 29, 1991 (Supp. 91-3).

Article 19 consisting of Sections R6-6-1901 and R6-6-1902 adopted effective October 16, 1981.

Section

- R6-6-1901. Definitions
- R6-6-1902. Contracting Process
- R6-6-1903. Solicitation for Offerors
- R6-6-1904. Immediate or Emergency Need for Services
- R6-6-1905. Acute Care - Solicitation of Service from Health Plans
- R6-6-1906. Acute Care - Evaluation of Proposals; Cancellation
- R6-6-1907. Acute Care - Award of Contracts
- R6-6-1908. Acute Care - Protests
- R6-6-1909. Acute Care Providers in a Geographic Area With No Health Plan
- R6-6-1910. Statute, Regulation, Rule, or Program Change
- R6-6-1911. Procurement Records
- R6-6-1912. Repealed

ARTICLE 20. APPEALS AND HEARINGS

Article 20 consisting of Sections R6-6-2001 through R6-6-2010 adopted effective March 7, 1983.

Article 20, consisting of Sections R6-6-2001 through R6-6-2010, repealed effective August 29, 1991 (Supp. 91-3).

Article 20, consisting of Sections R6-6-2001 through R6-6-2017, adopted effective August 29, 1991 (Supp. 91-3).

Section

- R6-6-2001. Right to Appeal
- R6-6-2002. Filing an Appeal
- R6-6-2003. Service on Parties
- R6-6-2004. Time
- R6-6-2005. Representation of Parties
- R6-6-2006. Continuation of Services
- R6-6-2007. Scheduling and Notice of Hearing
- R6-6-2008. Change of Hearing Officer
- R6-6-2009. Failure of a Party to Appear
- R6-6-2010. Prehearing Summary
- R6-6-2011. Subpoena of Witnesses and Documents
- R6-6-2012. Conduct of Hearing
- R6-6-2013. Hearing Decision
- R6-6-2014. Termination of Appeal
- R6-6-2015. Review by the Appeals Board
- R6-6-2016. Review by AHCCCS of ALTCS-related Matters
- R6-6-2017. Renumbered

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9 and Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

ARTICLE 1. GENERAL PROVISIONS**R6-6-101. Definitions**

In addition to the definitions found in A.R.S. §§ 36-551 and 36-596.51, the following definitions apply to this Chapter, unless otherwise provided in a specific Article of this Chapter:

1. "Administrative Review" means a mechanism of informal review for decisions made by the Division of Developmental Disabilities.
2. "Adult" means a person aged 18 years or above.
3. "Agency" means any organization, funded by the Division, which provides services to individuals with developmental disabilities.
4. "Agency administrator" means the Chief Executive Officer or designee of an agency.
5. "AHCCCS" means the Arizona Health Care Cost Containment System.
6. "ALTCS" means the Arizona Long-term Care System.
7. "ALTCS service provider" means those service providers through whom health care services are delivered to DD/ALTCS clients.
8. "Appeals Board" means the Department of Economic Security Appeals Board.
9. "Appellant" means any person or the Department who appeals an action under R6-6-1801 *et seq.*
10. "Appellate Services Administration/Long-term Care" means the Appellate Services Administration/Long-term Care within the Department of Economic Security.
11. "Applicant" means the responsible person as defined in A.R.S. § 36-551 who has applied for Division services.
12. "Assignment of benefits" means the insurer is entitled to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment.
13. "Behavior management" means procedures designed to increase a client's appropriate behaviors and decrease inappropriate behaviors which are a problem to the client or others.
14. "Behavior-modifying medications" means drugs which are prescribed, administered, and directed for the purpose of reducing or eliminating certain behaviors.
15. "Benefits" means, for the purpose of determining cost of care portion under Article 12, monies received from SSI, SSA, or other governmental funds which may be subject to a cost of care portion for residential and other services provided by the Division.
16. "Case plan" means a written document used by child welfare staff which is a separate and distinct part of the case record. It identifies the case plan goal and target date, objectives, tasks, timeframes, responsible parties, consequences, and barriers. The child welfare care manager is responsible for the development and implementation of the case plan in consultation with the family and service team.
17. "Child" means a person under the age of 18 years.
18. "Community residential setting resident" or "resident" means any person placed for care in a community residential setting whether or not the person is a client of the Department.
19. "Cost of care" means the dollar value of services listed in R6-6-1201(B) provided to a client through the Division.
20. "Cost of care portion" means the percentage of a client's cost of care that a parent, client, or responsible person may be required to pay to the Division to help offset the cost of the client's care.
21. "DD/ALTCS client" means an individual with developmental disabilities who has met the eligibility criteria of both the Division of Developmental Disabilities and the Arizona Long-term Care System (ALTCS).
22. "DD/non-ALTCS client" means an individual who has met the eligibility criteria of the Division but who does not meet the eligibility criteria of ALTCS.
23. "Direct care staff" means a person who is employed or contracted to provide direct services to clients by either a community residential setting licensee or license applicant, or by an agency applying for or certified to provide Home and Community-based Services.
24. "District Program Manager" or "DPM" means the Division of Developmental Disabilities' administrator or designee in each of the Department's 6 planning districts.
25. "Emergency measures" means physical management techniques used in an emergency to manage a sudden, intense, or out-of-control behavior.
26. "Evacuation device" means equipment used to facilitate the evacuation of a community residential setting in the event of an emergency.
27. "Exclusion time-out" means a time-out procedure in which an individual is removed from a reinforcing environment to an environment which is less reinforcing or in which there is less opportunity to earn reinforcement.
28. "Family support services" means those services and supports provided by the division and are designed to strengthen the family's role as a primary care giver, prevent inappropriate out-of-home placement, maintain family unity, and reunite families with members who have been placed out of the home."
29. "Family support voucher" means a written authorization provided to a client or responsible person to purchase family support services.
30. "Fee for service" means the costs that are assessed pursuant to R6-6-1201 *et seq.* for services received from or through the Division.
31. "Fire Risk Profile" means an instrument prescribed by the Division that yields a score for a facility based on the ability of the resident to evacuate the community residential setting.
32. "Forced Compliance" means a procedure in which an individual is physically forced to follow a direction or command.
33. "Grievant" means any person who is aggrieved by a decision of the Department.
34. "Health insurance payments" means the assignment of rights to medical support or other 3rd-party payments for medical care.
35. "Health Plan" means a service provider of health-related services.
36. "Hearing Officer" means any person selected to hear and render a decision in an appeal under Article 20 of this Chapter.

37. "Human Rights Committee" or "HRC" means a committee established by the Director to provide independent oversight and review as described in R6-6-1701 *et seq.*
38. "IEP" or "Individualized Education Plan" means a written statement for providing special education services to a child with a disability that includes the pupil's present levels of educational performance, the annual goals, and the short-term measurable objectives for evaluating progress toward those goals and the specific special education and related services to be provided.
39. "Income" means, as used in Article 12, net taxable income as reported on the person's last tax return.
40. "Individual service and program plan" or "ISPP" means a written statement of services to be provided to an individual with developmental disabilities including habilitation goals and objectives and determinations as to which services, if any, the client may be assigned. The ISPP incorporates and replaces the Individual Program Plan and the placement evaluation, both as defined in A.R.S. § 36-551, and the service plan as defined in A.R.S. § 36-2938.
41. "Individual service and program plan team" or "ISPP team" means a group of persons assembled by the Division and coordinated by the client's case manager in compliance with A.R.S. §§ 36-551 and 36-560 to develop an ISPP for each client.
42. "Insured" means the party to an insurance arrangement to whom, or on behalf of whom, the insurance company agrees to indemnify for losses, provide benefits, or render services.
43. "Insurer" means the insurance company assuming risk and agreeing to pay claims or provide services.
44. "Least intrusive" or "least obtrusive" means the level of intervention necessary, reasonable, and humanely appropriate to the client's needs, which is provided in the least disruptive or invasive manner possible.
45. "License applicant" means a person or business entity which submits an application to the Division for an initial or a renewal license to operate a community residential setting.
46. "Licensee" means a person or entity licensed as a community residential setting, or a person designated by such person or entity to be responsible for carrying out the requirements under these rules.
47. "Lives independently" means a client who lives in a primary residence in which the Division does not fund, in whole or in part, daily habilitation or room and board and for which the client secures the residence and is the principle signatory on the lease or rental agreement; makes decisions regarding roommates, furnishings, and arrangements for on-site services; makes the payments relating to the residence; and makes decisions to terminate such arrangements or lease or rental agreement.
48. "Main provider record" means a record maintained by a service provider which contains all pertinent information concerning the evaluations of, and the services provided to, a client, and which is located in a designated place.
49. "Mechanical restraint" means any mechanical device used to restrict the movement or normal function of a portion of the client's body, excluding only those devices necessary to provide support for the achievement of functional body position or proper balance.
50. "Medically necessary services" means those covered services provided by a physician or other licensed practitioner of the healing arts within the scope of their practice under state law to prevent disease, disability, and other adverse health conditions or their progression or to prolong life.
51. "Medication error" means that 1 or more of the following has occurred: a client is given the wrong medication or the wrong dosage, the medication is given at the wrong time or not given at all, or the medication is given via the wrong route or to the wrong person.
52. "Monitoring" means the process of reviewing licensed adult and child developmental homes and community residential settings for compliance with licensing, contractual, or programmatic requirements.
53. "Office of Appeals" means the Office of Appeals of the Department of Economic Security.
54. "Overcorrection" means a group of procedures designed to reduce inappropriate behavior, in specifically:
 - a. Requiring a client to restore the environment to a state vastly improved from that which existed prior to the inappropriate behavior; or
 - b. Requiring a client to repeatedly practice a behavior.
55. "Party" means any person appealing an action under R6-6-1801 *et seq.* or the Department.
56. "Physical restraint" means a procedure whereby 1 or more persons restrict a client's freedom of movement for the purpose of managing the client's behavior.
57. "Policy" in Article 13 means the written contract effecting insurance or the certificate thereof by whatever name called, and papers attached thereto and made a part thereof.
58. "Program contractor" means the Division of Developmental Disabilities in its position as program contractor to AHCCCS.
59. "Program Review Committee" or "PRC" means a group of persons designated by the District Program manager to review and approve or disapprove all behavior management programs before such programs may be implemented or sent to the Human Rights Committee.
60. "Program Unit" means a location where services are provided.
61. "Protective device" means an appliance used to prevent a client from engaging in self-injurious behavior, used by a medical practitioner to restrain an individual while a treatment or procedure is being performed, or authorized by a medical practitioner for use in response to a medical condition.
62. "Residential service" means a residential living arrangement operated by the Division or by providers funded by the Division, in which clients live with varied degrees of appropriate supervision.
63. "Reinforcer" means any consequence that maintains or increases the future probability of the response it follows.
64. "Response cost" means a procedure designed to decrease inappropriate behaviors by removing earned reinforcers or possessions as a consequence of an inappropriate behavior.
65. "Seclusion" or "locked time-out room" means the placement of a client in a room or other area from which the client cannot leave.
66. "Service provider" means an agency or individual operating under a contract or service agreement with the Department to provide services to Division clients.
67. "Services" means developmental disability programs and activities consistent with family support philosophy and operated by or contracted for the Department directly or indirectly, including residential services, family and child services, family and adult services, and case management and resource services.

68. "Standards" means Arizona Revised Statutes, administrative rules, the Code of Federal Regulations, interagency and intergovernmental agreements, and contract provisions that apply to licensing and monitoring community residential settings.
69. "Tardive Dyskinesia" means a slow, rhythmic, automatic stereotyped movement which occasionally occurs, either generalized or in single muscle groups, as an undesired side effect of therapy with certain psychotropic drugs.
70. "Third-party liability" means the resources available from a person or entity that is or may be, by agreement, circumstances, or otherwise, liable to pay all or part of the medical expenses incurred by a Division client.
71. "Third-party payor" means any individual, entity, or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of a Division client.
72. "Time-out device" means a secured room or area used to enforce a "time-out procedure".
73. "Time-out procedure" means a procedure in which the client's access to sources of various forms of reinforcement is removed for the purpose of decreasing a client's inappropriate behavior.
74. "Vulnerable adult" means an individual who is 18 years of age or older and who is unable to protect himself from abuse, neglect, or exploitation by others because of a mental or physical impairment according to A.R.S. § 13-3623.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Amended paragraph (19) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-101 renumbered to R6-6-201, new Section R6-6-101 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3). Amended effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was adopted and then renumbered and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-102. Rights of Individuals with Development Disabilities

The Division and its service providers shall guarantee the rights of individuals with developmental disabilities in the provision of services in compliance with applicable federal and state laws.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-102 renumbered to R6-6-202, new Section R6-6-102 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-102 renumbered to R6-6-103, new Section R6-6-102 adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-103. Confidentiality Officer

- A. Each district shall designate one Division staff person to act as a confidentiality officer.
- B. Confidentiality officers shall completely administer and supervise the maintenance and use of all personally identifiable information in the Division including storage, disclosure, retention, and destruction of this information in accordance with procedures of the Division and applicable state law.
- C. At the time of eligibility determination reviews, confidentiality officers or their designees shall notify responsible persons of their rights pursuant to A.R.S. § 36-568.01 regarding disclosure of personally identifiable information.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-103 renumbered to R6-6-203, new Section R6-6-103 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-103 renumbered to R6-6-104, new Section R6-6-103 renumbered from R6-6-102 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9 and Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-104. Access to Personally Identifiable Information

- A. The Division and its service providers shall each maintain a list of persons or titles who are authorized to have access to personally identifiable information in their files.
- B. The service provider shall maintain a main provider record for each client; the file shall be available to responsible persons upon request.

- C. Where a service provider uses a centralized recordkeeping system, the service provider shall also make available appropriate records in the program unit.
- D. Where particular professional services require the maintenance of separate records, a summary of the information contained therein shall be entered in the main provider record maintained by the client's service provider.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Corrected subsection (B) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-104 renumbered to R6-6-204, new Section R6-6-104 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-104 renumbered to R6-6-105, new Section R6-6-104 renumbered from R6-6-103 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-105. Consent for Release of Information

- A. Consent for the release of personally identifiable information shall be:
 - 1. Obtained from the client or responsible person in writing and dated;
 - 2. Maintained in the main record.
- B. Consents for release of information obtained during intake shall expire within 90 days.
- C. Subsequent consents shall be obtained as needed and shall be valid for six months from the date of execution.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-105 renumbered to R6-6-205, new Section R6-6-105 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-105 renumbered to R6-6-106, new Section R6-6-105 renumbered from R6-6-104 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not

required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-106. Violations and Penalties

- A. An employee of the Division or service provider shall not disclose personally identifiable client information unless a consent to release has been given as provided in this Section.
- B. An employee of the Division who makes an unlawful disclosure of personally identifiable information is subject to disciplinary action or dismissal. Anyone who has knowledge of an employee's violation of R6-6-106 must report the violation to the employee's supervisor.
- C. Violators are subject to penalties pursuant to applicable statute.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-106 renumbered to R6-6-206, new Section R6-6-106 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-106 renumbered to R6-6-107, new Section R6-6-106 renumbered from R6-6-105 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-107. Least Restrictive Environment

- A. Every client has a right to the least restrictive, appropriate alternative in connection with the provision of services or placement in a program.
- B. Every client has the right to a semi-annual review of services or programs funded by the Division and received by the client in order to ensure that the client's needs are met.

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-107 renumbered to R6-6-207, new Section R6-6-107 adopted effective June 7, 1993, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-107 renumbered to R6-6-108, new Section R6-6-107 renumbered from R6-6-106 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9 and Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the

Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-108. Safe and Humane Environment

- A.** This Section does not apply to community residential settings that are governed by the provisions of Article 7, 8, 10, or 11 of this Chapter.
- B.** Service providers shall have a written and posted plan for meeting potential emergencies and disasters.
- C.** The plan shall be reviewed annually by the Division and shall include, but shall not be limited to:
 1. The assignment of staff to specified duties and responsibilities;
 2. A system for notification of appropriate persons;
 3. Specification of evacuation routes and procedures including provisions for clients who are incapable of taking action for self-preservation; and
 4. Provision for at least one rehearsal per year to evaluate the effectiveness of the plan.
- D.** Programs operated by the Division, or by a profit or nonprofit agency supervised or financially supported by the Division, shall have an active safety program, which shall include, but shall not be limited to:
 1. Staff training for meeting potential emergencies and disasters such as fire, severe weather, and missing persons;
 2. Staff training in the use of alarm systems and signals, firefighting, and equipment and evacuation devices;
 3. Staff training in administering first aid, including cardiopulmonary resuscitation (CPR) and the Heimlich maneuver, in the presence of accident or illness;
 4. Provisions for the avoidance of hazards such as accessibility to dangerous substances, sharp objects, and unprotected electrical outlets;
 5. Provisions for the use of glass or other glazing material appropriate to the safety of the individuals served;
 6. The use of clean, nonabrasive, slip-resistant, and safe surfaces on floors and stairs;
 7. Provisions for the avoidance of heating apparatus and hot water temperatures that constitute a burn hazard to the individuals served; and
 8. The use of lead-free paint in areas to which clients have access.
- E.** Programs operated by the Division, or by a profit or nonprofit agency supervised or financially supported by the Division, shall conform to local fire safety standards and the fire safety standards as approved and promulgated by the Arizona State Fire Marshal's office or by tribal fire department standards, whichever is appropriate.
- F.** Programs operated by the Division, or by a profit or nonprofit agency supervised or financially supported by the Division, shall provide adequate heating and cooling.
- G.** Service providers shall keep copies of all licenses, certificates, and correspondence in a separate file to document compliance with sanitation, health, and environmental codes of state and local authorities having primary jurisdiction in these matters. The file shall be available for inspection by the Division employees during regular business hours.
- H.** Service provider staff shall:
 1. Always give clients the least amount of physical assistance necessary to accomplish a task;
 2. Ensure that clients be accorded privacy during treatment and care of personal needs;
 3. Care for the client's personal needs and, except in cases of emergency, ensure that each client is afforded the right to have care for personal needs provided by a staff mem-

ber of the gender chosen by the client/responsible person. This choice needs to be specified in the ISPP;

4. Ensure that clients are afforded privacy with regard to written correspondence, telephone communication, and visitations; and
5. Uphold respect for the dignity of individuals with developmental disabilities during tours of client residences, work areas, or classrooms.

Historical Note

Section R6-6-108 adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-108 renumbered to R6-6-208 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Section R6-6-108 renumbered from Section R6-6-107 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-109. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Deleted subsection (O); corrected subsections (E), (H), and (I); amended subsections (J) and (M); and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-208 renumbered from R6-6-108 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-110. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-210 renumbered from R6-6-110 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-111. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-210 renumbered from R6-6-110 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-112. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-212 renumbered from R6-6-112 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-113. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Amended subsection (C) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-213 renumbered from R6-6-113 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not sub-

mit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-114. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-214 renumbered from R6-6-114 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-115. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-215 renumbered from R6-6-115 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-116. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-216 renumbered from R6-6-116 effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-117. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Amended subsections (C), (D), and (F) and adopted as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-217 renumbered from R6-6-117 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-118. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-218 renumbered from R6-6-118 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-119. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-219 renumbered from R6-6-119 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-120. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987

(Supp. 87-3). Section R6-6-220 renumbered from R6-6-120 effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-121. Renumbered**Historical Note**

Adopted as an emergency effective January 12, 1987, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 87-1). Emergency expired. Adopted without change as a permanent rule effective September 18, 1987 (Supp. 87-3). Section R6-6-213 renumbered from R6-6-113 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

ARTICLE 2. REPEALED

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-201. Repealed**Historical Note**

Former R6-6-201 repealed, new Section R6-6-201 renumbered from R6-6-101 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-201 repealed, new Section R6-6-201 renumbered from R6-6-202 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-202. Repealed**Historical Note**

Former R6-6-202 repealed, new Section R6-6-202 renumbered from R6-6-102 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-202 renumbered to R6-6-201, new Section R6-6-202 renumbered from R6-6-203 and amended effective September 30, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-203. Repealed

Historical Note

Former R6-6-203 repealed, new Section R6-6-203 renumbered from R6-6-103 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-203 renumbered to R6-6-202, new Section R6-6-203 renumbered from R6-6-204 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-204. Repealed

Historical Note

Former R6-6-204 repealed, new Section R6-6-204 renumbered from R6-6-104 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-204 renumbered to R6-6-203, new Section R6-6-204 renumbered from R6-6-205 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-205. Repealed

Historical Note

Section R6-6-205 renumbered from R6-6-105 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-205 renumbered to R6-6-204, new Section

R6-6-205 renumbered from R6-6-206 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-206. Repealed

Historical Note

Section R6-6-206 renumbered from R6-6-106 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-206 renumbered to R6-6-205, new Section R6-6-206 renumbered from R6-6-207 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-207. Repealed

Historical Note

Section R6-6-207 renumbered from R6-6-107 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-207 renumbered to R6-6-206, new Section R6-6-207 renumbered from R6-6-208 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-208. Repealed

Historical Note

Section R6-6-208 renumbered from R6-6-108 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-208 renumbered to R6-6-207, new Section

R6-6-208 renumbered from R6-6-209 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-209. Repealed

Historical Note

Section R6-6-208 renumbered from R6-6-108 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-209 renumbered to R6-6-208, new Section R6-6-209 renumbered from R6-6-210 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-210. Repealed

Historical Note

Section R6-6-210 renumbered from R6-6-110 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-210 renumbered to R6-6-209, new Section R6-6-210 renumbered from R6-6-211 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-211. Repealed

Historical Note

Section R6-6-210 renumbered from R6-6-110 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-211 renumbered to R6-6-210, new Section

R6-6-211 renumbered from R6-6-212 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-212. Repealed

Historical Note

Section R6-6-212 renumbered from R6-6-112 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-212 renumbered to R6-6-211, new Section R6-6-212 renumbered from R6-6-213 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-213. Repealed

Historical Note

Section R6-6-213 renumbered from R6-6-113 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-213 renumbered to R6-6-212, new Section R6-6-213 renumbered from R6-6-214 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-214. Repealed

Historical Note

Section R6-6-214 renumbered from R6-6-114 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-214 renumbered to R6-6-213, new Section

R6-6-214 renumbered from R6-6-215 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-215. Repealed

Historical Note

Section R6-6-215 renumbered from R6-6-115 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-215 renumbered to R6-6-214, new Section R6-6-215 renumbered from R6-6-216 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-216. Repealed

Historical Note

Section R6-6-216 renumbered from R6-6-116 effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-216 renumbered to R6-6-215, new Section R6-6-216 renumbered from R6-6-217 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-217. Repealed

Historical Note

Section R6-6-217 renumbered from R6-6-117 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-217 renumbered to R6-6-216, new Section

R6-6-217 renumbered from R6-6-218 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-218. Repealed

Historical Note

Section R6-6-218 renumbered from R6-6-118 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-218 renumbered to R6-6-217, new Section R6-6-218 renumbered from R6-6-219 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-219. Repealed

Historical Note

Section R6-6-219 renumbered from R6-6-119 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-219 renumbered to R6-6-218, new Section R6-6-219 renumbered from R6-6-220 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was repealed, under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-220. Repealed

Historical Note

Section R6-6-220 renumbered from R6-6-120 effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-220 renumbered to R6-6-219, new Section R6-6-220

renumbered from R6-6-221 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Repealed effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-221. Renumbered

Historical Note

Section R6-6-213 renumbered from R6-6-113 and amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-221 renumbered to R6-6-220 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 3. ELIGIBILITY FOR DEVELOPMENTAL DISABILITIES SERVICES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-301. Eligibility for Services

- A. In order to be eligible for Developmental Disabilities services, a person must be a resident of the state of Arizona and must be developmentally disabled as determined in accordance with A.R.S. § 36-551 and within the guidelines stated in R6-6-302.
- B. Notwithstanding the provisions of subsection (A), the requirement of state residency does not apply to federal programs which are not subject to residency rules.
- C. As a condition of eligibility, applicants are required to assign rights to insurance benefits in accordance with R6-6-1303.
- D. Final determination of eligibility will be the decision of the Division.
- E. Even though a person may at one time fully meet the guidelines contained herein, effective services may later reduce functional limitations to the extent that they are no longer substantial. When, in the opinion of the Division, after a review pursuant to R6-6-1801 et seq., it is necessary for a client to receive continued services to maintain skills or to prevent regression, the client will remain eligible for services.
- F. Eligibility for infants is determined as follows:
 1. A child under the age of six years may be eligible for services if there is a strongly demonstrated potential that the child is or will become developmentally disabled as determined by appropriate tests. To be eligible for Division services, a child from age 0-6 shall:
 - a. Have a diagnosis of cerebral palsy, epilepsy, autism, or mental retardation;
 - b. Be at risk for becoming developmentally disabled based on an identified delay in one or more areas of

development or if there is a likelihood that without services the child will become developmentally delayed or disabled; or

- c. Have demonstrated a significant developmental delay as determined in one or more areas of development as measured on a culturally appropriate and recognized developmental assessment tool. Eligibility is exclusive of cultural or environmental factors.
2. Developmental delay shall be determined by a physician or person formally trained in early childhood development who evaluates the child through the use of culturally appropriate and recognized developmental tools and informed clinical opinion.

Historical Note

Adopted effective October 31, 1978 (Supp. 78-5). Former Section R6-6-301 repealed, new Section R6-6-301 adopted effective March 30, 1983 (Supp. 83-2). Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-302. Guidelines for Determining Developmental Disabilities

- A. Autism, cerebral palsy, epilepsy, and mental retardation are determined as follows:
 1. Autism -- by a licensed psychiatrist or psychologist whose expertise in diagnosing autism is determined by the Division.
 2. Cerebral palsy -- by a licensed physician.
 3. Epilepsy -- by a licensed physician.
 4. Mental retardation -- by a qualified person who performs psychological evaluations utilizing tests which are culturally appropriate and valid.
- B. Substantial functional limitations must be determined in three or more areas of the major life activities. These limitations are defined as follows:
 1. Self-care -- when a person requires significant assistance in performing eating, hygiene, grooming, or health care skills or when the time required for a person to perform these skills is so extraordinary as to impair the ability to retain employment or to conduct other activities of daily living.
 2. Receptive and expressive language -- when a person is unable to communicate with others, or is unable to communicate effectively without the aid of a third person, a person with special skills, or without a mechanical device.
 3. Learning -- when a person's cognitive factors, or other factors, related to the acquisition and processing of new information (such as attentional factors, acquisition strategies, storage, and retrieval) are impaired to the extent that the person is unable to participate in age-appropriate learning activities without utilization of additional resources.
 4. Mobility -- when a person's fine or gross motor skills are impaired to the extent that the assistance of another per-

son or mechanical device is required to move from place to place or when the effort required to move from place to place is so extraordinary as to impair ability to retain employment and conduct other activities of daily living.

5. Self-direction -- when a person requires assistance in managing personal finances, protecting self-interest, or making independent decisions which may affect well-being.
6. Capacity for independent living -- when, for a person's own safety or well-being, supervision, or assistance is needed at least on a daily basis in the performance of health maintenance and housekeeping.
7. Economic self-sufficiency -- when a person is unable to perform the tasks necessary for regular employment or is limited in productive capacity to the extent that earned annual income, after extraordinary expenses occasioned by the disability, is below the poverty level.

Historical Note

Adopted effective October 31, 1978 (Supp. 78-5). Former

Section R6-6-302 repealed, new Section R6-6-302 adopted effective March 30, 1983 (Supp. 83-2). Amended effective June 7, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-303. Eligibility Review

Determinations of eligibility are subject to review at any time by the Assistant Director or designee.

Historical Note

Adopted effective October 31, 1978 (Supp. 78-5).

Repealed effective March 30, 1983 (Supp. 83-2). New

Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 4. APPLICATION

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-401. Application for Admission to Services

- A. To apply for Division services, an applicant shall:
 1. Participate in a face-to-face interview with a designated Department employee; and
 2. File with the Division a written application on a form prescribed by and available from the Division at no charge.
- B. The application form shall contain the following information:

1. With respect to the person to receive services:
 - a. Name, address, and telephone number;
 - b. Personal information including date of birth, place of birth, age, social security number, sex, primary language, marital status, and citizenship;
 - c. Monthly income;
 - d. Medical insurance coverage;
 - e. Educational background, including current or planned enrollment in a special education program within a school district;
 - f. Information documenting the existence of a developmental disability, including professional assessments and evaluations;
 - g. A description of any other disabling conditions or special considerations;
 - h. If under 18 years of age, total number of persons in the household;
 - i. Identification of any adults who regularly live in the home by name, date of birth, and relationship to the person to receive services;
 - j. Identification of natural parents, regardless of whether living in the home, by name, social security number, and business and home telephone numbers; and
 - k. Identification of two adult persons living outside the home who are familiar with the person to receive services, by name, address, relationship to the person to receive services, and business and home telephone numbers; and
2. With respect to the responsible person, if other than the person to whom services would be provided:
 - a. Name, business and home addresses, business and home telephone numbers, and social security number;
 - b. Relationship to person to whom services would be provided; and
 - c. If a guardianship or conservatorship has been established, a copy of the court order shall accompany the application;

C. The applicant shall provide a description of programs and services requested.

D. The applicant shall provide information regarding prior applications for admission to Division services or services received.

E. The applicant shall provide documentation of application information as defined in R6-6-405.

F. The Division shall not consider an incomplete application.

1. If the Division receives an application that is not complete, the Division shall send written notification of deficiencies to the applicant.
2. If the applicant does not provide the specified information within 15 working days of receipt of notification of deficiencies, or cannot demonstrate a good faith effort to collect the information, the Division shall close the applicant's file and send a letter denying admission.

G. An applicant whose file has been closed and who subsequently desires admission shall submit a new application.

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed, new Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that

the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-402. Consent

- A. The signature of the responsible person is required on the application materials pursuant to A.R.S. § 36-560(D).
- B. If other than the responsible person, the individual to receive Division services, who is capable of giving informed consent, is required to sign the application materials as follows:
 - 1. Signed consent is required from an individual who is aged 18 or above and is to receive Division services.
 - 2. Signed consent is required from an individual who is aged 14 or above and is to receive services in a community residential setting.
- C. The Division shall document in the case file its determination as to whether the person to receive services is capable of giving informed consent.

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed, new Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-403. Referrals from Juvenile Court

The Division shall determine eligibility of any child assigned to the Division by a juvenile court pursuant to A.R.S. § 8-242. If determined ineligible, the Division shall immediately refer the matter to the Department's Administration for Children, Youth, and Families.

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed, new Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-404. Eligibility under ALTCS

- A. The Division shall refer individuals with developmental disabilities who may be eligible for the Arizona Long-term Care System (ALTCS) to the Arizona Health Care Cost Contain-

ment System Administration (AHCCCS) to determine eligibility under ALTCS.

- B. The Division shall not provide services, other than emergency services as provided under R6-6-502, to an individual who has been referred for ALTCS eligibility determination until that determination has been completed.
- C. Applicants who voluntarily refuse to cooperate in the ALTCS eligibility process are not eligible for Division services pursuant to A.R.S. § 36-559.

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed, new Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed and a new Section adopted and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-405. Documentation and Verification

The applicant shall provide documentation of the following:

1. Residency.
 - a. All applicants shall sign an affidavit stating current residency and intent to remain in Arizona.
 - b. An applicant shall show written proof of Arizona residency by providing one of the following types of documents:
 - i. Rent or mortgage receipt, or lease in the applicant's name showing the residential address;
 - ii. Non-relative landlord statement indicating the applicant's name and address as well as the landlord's name and address and telephone, if available;
 - iii. Applicant's Arizona driver's license;
 - iv. Applicant's Arizona motor vehicle registration;
 - v. Signed employment statement from applicant's non-relative employer;
 - vi. Utility bill in the applicant's name indicating the applicant's address;
 - vii. Current phone directory showing applicant's name and address;
 - viii. United States Post Office records which show the applicant's name and address;
 - ix. A current city directory showing the applicant's name and address;
 - x. Certified copy of a church membership or enrollment record which indicates the applicant's current name and address; or
 - xi. Certified copy of a school record which indicates the applicant's current address; or
 - c. If an applicant has made all reasonable efforts to obtain documented verification as described in subsection (1)(b) and has been unsuccessful, the affidavit signed by the applicant attesting to the applicant's present residence and intent to remain in Arizona shall be sufficient.
2. Age.
 - a. An applicant shall provide proof of age of the person to receive services by the following:
 - i. Alien documents;

- ii. Federal or state census records;
 - iii. Hospital records of birth;
 - iv. Copy of birth certificate;
 - v. Military records;
 - vi. Notification of birth registration;
 - vii. Religious records showing age or date of birth;
 - viii. Dated school records showing age or school records showing date of birth;
 - ix. Affidavit signed by the licensed physician, licensed midwife or other health care professional who was in attendance at the time of the birth, attesting to the date of birth; or
 - x. U.S. Passport.
- b. If an applicant has made all reasonable efforts to obtain documented verification as described in subsection (2)(a) and has been unsuccessful, an affidavit signed by the applicant shall be sufficient to verify age of person to receive services.
3. Health Insurance Coverage. An applicant shall provide information regarding current health insurance which relates to the individual for whom application is being made as provided in R6-6-1301 *et seq.*
4. Income. The Division shall require documentation of income as provided in R6-6-1201 *et seq.*

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed, new Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-406. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-407. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona

Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-408. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-409. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-410. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-411. Repealed**Historical Note**

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona

Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-412. Repealed

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-413. Repealed

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-414. Repealed

Historical Note

Adopted effective February 2, 1989 (Supp. 89-1). Section repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

ARTICLE 5. ADMISSION/REDETERMINATION/TERMINATION

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-501. Admission

- A. If determined eligible pursuant to A.R.S. § 36-559 and R6-6-301 et seq., the person for whom services are requested shall be considered by the ISPP team for assignment to services and thereby become a client.
- B. If the person for whom services are requested is determined ineligible, the Division shall send the applicant written notice of ineligibility by registered mail, return receipt requested.

Historical Note

Repealed effective February 2, 1989 (Supp. 89-1). New Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-502. Emergency Admission to Services

In an emergency, the Division may provide services for a limited period of time, pursuant to A.R.S. § 36-560(L) et seq., without the performance of an ISPP. However, for services to continue, a completed application for regular admission shall be filed and an ISPP conducted within 30 days of the emergency admission date in compliance with this Article.

Historical Note

Repealed effective February 2, 1989 (Supp. 89-1). New Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-503. Redeterminations

- A. The Division may redetermine a client's eligibility as a result of periodic evaluations in accordance with R6-6-604.
- B. The Division may redetermine a client's eligibility at any time as may be authorized by the Assistant Director or designee.
- C. The Division may redetermine a client's financial status, for purposes of client contribution to cost of care, as a result of:
 1. Scheduled periodic financial redeterminations.
 2. Changes in the financial situation of the client and/or the parents of a client under age 18. The responsible person shall report to the Division any changes in financial situation which may affect the amount of contribution to cost of care within ten days of change.
 3. Financial redeterminations conducted at the responsible person's request.

Historical Note

Repealed effective February 2, 1989 (Supp. 89-1). New Section adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-504. Termination of Services

- A. Pursuant to A.R.S. § 36-566(A) and (B), the Division shall terminate services to a client following 30 days' written notice to the responsible person of the proposed termination and of the opportunity for administrative review through A.R.S. § 36-563 and R6-6-1801 et seq.:
1. Upon the Division's receipt of a written request from the responsible person for withdrawal from services;
 2. When the Division determines that the client no longer meets the conditions of eligibility for services;
 3. When the client reaches the age of 18 unless an application for continuation of services has been filed pursuant to R6-6-505;
 4. When the responsible person refuses to cooperate or comply with the ISPP.
- B. Notwithstanding R6-6-504(A), the Division shall not terminate services to a child with developmental disabilities assigned to the Department by the juvenile court except pursuant to court order.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-505. Continuation of Services

Pursuant to A.R.S. § 36-566(C), following the Division's timely written and oral notice to the responsible person of termination, the responsible person may file a written application for the continuation of services in the same manner provided in R6-6-401.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

ARTICLE 6. PROGRAM SERVICES

Editor's Note: The following Section was adopted, repealed, and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-601. Case Management

Upon the filing of an application for admission to services, the Division shall assign a case manager to assist the applicant. Upon admission, the case manager shall assist the client and the client's family in all aspects of the developmental disabilities service delivery system as follows:

1. The pursuit of evaluations and professional assessments necessary to substantiate the need for services;
2. The collection and analysis of information regarding eligibility and the prioritization of service needs;
3. The provision of information on available services and referral to appropriate service alternatives; and

4. The development of individual habilitation goals and objectives for the client through the ISPP.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-601 repealed, new Section R6-6-601 renumbered from R6-6-602 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-602. Individual Service and Program Plan

- A. Within 30 days following determination of eligibility, the ISPP team shall conduct an evaluation to determine the appropriate services for the client and shall develop an ISPP based on the evaluation.
- B. The ISPP team shall recommend specific services based upon:
1. The best interests of the client and factors listed in A.R.S. § 36-560(H);
 2. The potential for family support; and
 3. The extent to which the services:
 - a. Promote family competence and independence;
 - b. Preserve the integrity of the family;
 - c. Maximize the client's independent living;
 - d. Involve the family in problem-solving and decision-making;
 - e. Meet the needs and desires of the family;
 - f. Prevent the deterioration of the family structure and functioning and improve the quality of life for the client and family;
 - g. Can be provided in the least obtrusive manner;
 - h. Provide uninterrupted and orderly transition from one stage of development to another based upon client and family ages;
 - i. Alleviate abuse or neglect or eliminate conditions that hinder the client's development;
 - j. Prevent the client from being a danger to himself or to others; and
 - k. Support a client or family who is experiencing a temporary but remedial crisis including hospitalization, loss of a job, incapacitating illness, or death.
 4. In the case of a DD/ALTCS client, the ISPP team shall ensure that the client obtain medically necessary and other necessary medically related remedial and social services.
- C. The ISPP shall contain an assessment addressing each consideration listed in R6-6-603(B) and:
1. The service needs of the client, both direct and indirect, irrespective of the Division's resource availability;
 2. Individual habilitation goals and objectives, both long-term and short-term;
 3. Methods or strategies by which objectives shall be implemented;
 4. The financial contributions, if any, which the Department shall require the responsible person to make on behalf of the client pursuant to A.R.S. § 36-562 et seq. and R6-6-1201 et seq.; and
 5. Any special considerations.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-602 renumbered to R6-6-601, new Section R6-6-602 renumbered from R6-6-603 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-603. Assignment to Services

- A. The case manager shall assign a DD/ALTCS client to appropriate services within 30 days of the Division's receipt of notification from AHCCCS of the client's eligibility under ALTCS.
- B. In the case of a DD/non-ALTCS client, the case manager shall, within 30 days of the completion of the ISPP:
 1. Assign the client to one or more appropriate services; or
 2. Provide written notice of non-assignment, and reason for non-assignment, subject to the right of the responsible person and any joint applicant to request administrative review pursuant to A.R.S. § 36-563 and R6-6-1801 et seq.
- C. If an assignment for a DD/non-ALTCS client cannot be made at the time of review:
 1. And the reason for non-assignment is lack of space or lack of legislatively appropriated or other funding, the case manager shall place the client's name on a waiting list.
 2. The case manager may refer the client to programs, services or other resources available in the community.
 3. Unless waived by the responsible person, the case manager shall review the waiting list and referrals at least every six months with the responsible person to determine continuing need for services.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-603 renumbered to R6-6-602, new Section R6-6-603 renumbered from R6-6-604 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-604. Periodic Evaluations

- A. Pursuant to A.R.S. § 36-565, the case manager and members of the ISPP team as appropriate shall conduct periodic reviews

in six-month intervals, or more frequently as identified in the client's ISPP, and shall either:

1. Determine that no change in services is needed;
 2. Determine that services should be terminated;
 3. Determine that the client should be transferred to another service; or
 4. Determine that other substantial changes in service are required.
- B. The findings of the periodic evaluations shall be incorporated into the ISPP.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-604 renumbered to R6-6-603, new Section R6-6-604 renumbered from R6-6-605 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-605. Transfer to Another Service or Changes in Service

- A. In addition to a transfer or change which results from a periodic review, a responsible person may request in writing to the Division a transfer or change at any time.
- B. The request shall be considered by the ISPP team. The recommendation and review shall be made in the same manner established for recommended periodic reviews of the ISPP.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-605 renumbered to R6-6-604, new Section R6-6-605 renumbered from R6-6-606 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-606. Consent of the Responsible Person

- A. Pursuant to A.R.S. § 36-560(D), no admission or assignment of any client to a program, service, or facility may be made by the Division without the written consent of the responsible person.
- B. The signature of the responsible person on the appropriate report or ISPP shall serve as the consent to treatment or services required by A.R.S. § 36-560.
- C. In the event consent for any or all services is withheld, those services shall be terminated.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-606 renumbered to R6-6-605, new Section R6-6-606 renumbered from R6-6-607 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-607. Renumbered**Historical Note**

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-607 renumbered to R6-6-606 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 7. LICENSURE OF COMMUNITY RESIDENTIAL SETTINGS

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-701. Applicability

This Article applies to community residential settings except those licensed as child developmental foster homes according to Article 10 of this Chapter and those licensed as adult developmental homes according to Article 11 of this Chapter.

Historical Note

Former Section R6-6-701 repealed effective February 2, 1989. New Section R6-6-701 adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-702. Settings Requiring Licensure

A. Except as provided in subsections (B), (C), and (D) and A.R.S. § 36-591(F), any service provider operating a community residential setting shall be licensed by the Division according to the requirements of this Article prior to providing residential services.

- B. Community residential settings identified by the Division as child developmental foster homes shall apply for licensure pursuant to Article 10 of this Chapter.
- C. Community residential settings identified by the Division as adult developmental homes shall apply for licensure pursuant to Article 11 of this Chapter.
- D. A setting in which the Department determines that a client lives independently is not a community residential setting and does not require licensure pursuant to this Article.

Historical Note

Former Section R6-6-702 repealed effective February 2, 1989. New Section R6-6-702 adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-703. Application for Initial License

- A. To become licensed for the operation of a community residential setting, the service provider shall file an application for initial license with the Division and meet the requirements of this Article.
- B. The license applicant shall complete the application for an initial license on a form prescribed by the Division. The form shall contain, at a minimum, the following information:
 1. The name, address, and telephone number of the administrative office for the license applicant;
 2. The name and address of the proposed community residential setting;
 3. A written description of the proposed community residential setting, including:
 - a. The maximum number of the residents who will reside in the community residential setting;
 - b. The age range of residents who will reside in the community residential setting;
 - c. The gender of the residents who will reside in the community residential setting; and
 - d. The anticipated date of occupancy for the community residential setting.
- C. The license applicant shall file the application for an initial license with the Division at least 30 calendar days prior to the anticipated date on which a client of the Division will occupy the community residential setting, unless a request for immediate placement is made by the Division.
- D. The administrator and staff shall be fingerprinted for a criminal record check.
- E. A license applicant who is not currently operating a community residential setting which is licensed by the Division shall submit, in addition to the application for licensure, documentation of fingerprinting for the purpose of a criminal record check.
- F. The license applicant shall cooperate with a health and safety licensing inspection by the Division which shall occur prior to the placement of a client in the community residential setting.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-704. Application for License Renewal

- A. Except as provided in R6-6-705(B), a regular license for a community residential setting shall be effective for two years from the date of issuance.
- B. The licensee shall apply for a license renewal on forms prescribed by the Division which shall contain, at a minimum, the information described in R6-6-703(B).
- C. The licensee shall meet the requirements of this Article.
- D. The licensee shall submit an application for license renewal to the Division at least 30 calendar days, but not more than 90 calendar days, prior to the expiration of the community residential setting license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-705. Issuing a Regular License

- A. The Division shall issue a new license or renew a regular license to operate a community residential setting if it finds that:
 - 1. The license applicant is in compliance with the requirements of this Article.
 - 2. The license applicant meets the following qualifications:
 - a. Has a reputable and honest character;
 - b. Has education, business, or professional experience to carry out the requirements of this Article; and
 - c. Has a written plan demonstrating provisions for financing the services offered during the licensed term.
 - 3. The license applicant establishes that the proposed services are in compliance with this Chapter.
 - 4. The license applicant shall maintain a written document identifying the agency administrator or a designee, who shall have full authority to act on behalf of the license applicant, and who shall at all times be available to handle problems that may arise.
- B. A regular license, which is issued following the satisfactory completion of a corrective action plan required by a provisional license, shall expire two years from the date of issuance of the provisional license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-706. Issuing a Provisional License

- A. The Division may issue a provisional license to a license applicant to operate a community residential setting when:
 - 1. The applicant is temporarily unable to meet the requirements of this Article;
 - 2. The applicant submits a written commitment and plan of correction to the Division which identifies the steps to be taken to come into compliance with the areas identified by the Division; and
 - 3. The Division is satisfied that the license applicant can correct the deficiencies identified for the community residential setting within six months.
- B. A provisional license shall be effective for a maximum of six months and is not renewable.
- C. The licensee shall notify the Division of all actions taken to correct the deficiencies identified for the community residential setting at least 30 days prior to the expiration of a provisional license. Upon request by the Division, the licensee shall demonstrate that the corrective action has been completed.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-707. Amending a License

A licensee seeking to change the description of persons residing in the community residential setting as identified by R6-6-703(B)(3) shall apply to the Division on forms prescribed by the Division for an amendment to the license no less than 15 calendar days prior to the anticipated change.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-708. Maintenance of a License

- A. A license for a community residential setting is valid only for the licensee and location identified on the application.
- B. If a licensee intends to relocate a community residential setting to a location different from the location identified on the license, the licensee shall apply to the Division for a new license at least 15 calendar days prior to the anticipated date of relocation.
- C. The license applicant or licensee shall notify the Division of any known arrests, indictments, or convictions of an employee of a licensed community residential setting pursuant to A.R.S. § 36-594.
- D. At the time of employment and every three years thereafter, the following shall be subject to a criminal history record check:
 - 1. The licensee,
 - 2. Direct care staff,
 - 3. The immediate supervisor of any direct care staff, and
 - 4. An employee of a licensed community residential setting who has fiduciary responsibilities for the setting or for client funds.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-709. Complaints

- A. Any person who has a complaint about a community residential setting may make the complaint known verbally or in writing to the Department.
- B. A complainant who has provided his name and address shall be notified that his complaint has been received and the notice shall indicate what investigative actions shall be taken.
- C. The Department shall investigate complaints about community residential settings within ten calendar days of the receipt of the complaint and shall notify the licensee of the investigation. In a case where there is reason to believe that imminent danger exists, the investigation shall be conducted immediately and the licensee shall be notified.
- D. The name or identifying characteristics of the complainant shall not be disclosed unless the complainant consents in writing to the disclosure or the investigation of the complaint results in a legal proceeding and disclosure is ordered by an appropriate authority.
- E. The Department shall notify the licensee of results of an investigation conducted pursuant to this rule and the requirement for any corrective action that the Department deems necessary.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona

Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-710. Inspections, Monitoring, and Investigations of Community Residential Settings

- A. The licensee shall cooperate with all monitoring and inspections conducted by the Division as required by A.R.S. § 36-593.
- B. The licensee shall facilitate the Division's inspections, monitoring, and investigations by:
 - 1. Making available to the Division for review the licensee's books, records, and manuals, the community residential setting, and vehicles used to transport clients;
 - 2. Allowing the Division to interview employees; and
 - 3. Assisting the Division to conduct interviews with residents and responsible persons.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-711. Denial, Suspension, or Revocation of Licenses

- A. The Division may deny, suspend, or revoke a license for violations of A.R.S. § 36-594.
- B. The Division may deny or revoke a license if a license applicant or licensee has been arrested for, convicted of, charged with, or pled no contest to any of the following criminal acts:
 - 1. Sexual abuse of a child or vulnerable adult,
 - 2. Incest,
 - 3. First- or second-degree murder,
 - 4. Kidnapping,
 - 5. Arson,
 - 6. Sexual assault,
 - 7. Sexual exploitation of a child or vulnerable adult,
 - 8. Commercial sexual exploitation of a child or vulnerable adult,
 - 9. Felony offenses within the previous ten years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs,
 - 10. Robbery,
 - 11. Child prostitution as defined in A.R.S. § 13-3206,
 - 12. Child abuse or abuse of a vulnerable adult,
 - 13. Sexual conduct with a child,
 - 14. Molestation of a child or vulnerable adult,
 - 15. Voluntary manslaughter, or
 - 16. Aggravated assault.
- C. Upon notification that an employee of a licensed community residential setting is found to have been arrested for, convicted of, charged with or pled no contest to any of the criminal acts listed in subsection (B), the licensee shall immediately take the following actions:
 - 1. Remove the employee from direct contact with clients; and
 - 2. Notify the Division, unless the licensee initially received notice from the Division.

- D. If a licensee fails to comply with subsection (C), the Division shall revoke or suspend the license.
- E. If the criminal record check indicates that an individual has been convicted of or found by a court to have committed, or is reasonably believed to have committed, offenses pursuant to A.R.S. § 36-594, other than those listed in subsection (B), the Division shall consider the following factors when determining what corrective action to take against the licensee:
 1. The extent of the individual's criminal record;
 2. Length of time since the commission of the offense;
 3. Nature of the offense;
 4. Mitigating circumstances surrounding commission of the offense. The burden is on the person to demonstrate that there were mitigating circumstances;
 5. The degree of the person's participation in the offense. The burden is on the person to demonstrate that the involvement was not direct;
 6. The extent of the person's rehabilitation, including but not limited to:
 - a. The person shall prove that probation has been completed and complete restitution or compensation for the offense has been made; and
 - b. Evidence of positive action to change criminal behavior such as completion of a drug treatment program or counseling.
 7. Personal references attesting to the person's rehabilitation.
- F. When an application for a license is denied, or a license is suspended or revoked pursuant to A.R.S. § 36-594, the Division shall deliver a written notice of the action in person or send a written notice of the action by certified mail to the license applicant or licensee. The notice shall state the reasons for the denial, suspension, or revocation with reference to applicable statutes or rules.
- G. If the reason for denial, suspension, or revocation of a license involves the health, welfare, or safety of clients, the clients shall be immediately removed from the community residential setting.
- H. When a license is denied, suspended, or revoked, the license applicant or licensee has the right to appeal the decision pursuant to Article 20.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-712. Appeals

- A. When an application for a license is denied, or a license is suspended or revoked, the Division shall notify the license applicant or licensee of the right of appeal pursuant to R6-6-2001 et seq. (Appeals and Hearings), except that appeals from the decision of a hearing officer shall be in accordance with A.R.S. § 41-1992.
- B. When a licensing decision is appealed, the denial, suspension, or revocation of the license shall not become final until the appeal decision is rendered.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-713. Emergency Procedures and Evacuation Drills

- A. A license applicant or licensee shall have a plan for meeting potential emergencies, including but not limited to:
 1. Procedures for direct care staff to implement in the event of fires, missing persons, and severe weather conditions;
 2. A floor plan of the community residential setting which designates the routes of evacuation, location of firefighting equipment and location of evacuation devices;
 3. Instructions on the use of alarm systems, firefighting equipment, and evacuation devices available in the community residential setting;
 4. Procedures for evacuation including provisions for residents who have not demonstrated the ability for taking action for self-preservation; and
 5. Procedures for notification of emergency services, law enforcement, and the agency administrator or designee.
- B. The plan shall be accessible in each community residential setting by the direct care staff.
- C. The licensee shall ensure that the community residential setting location is known to local emergency personnel or that the setting's address is clearly posted and visible from the street.
- D. Settings licensed for seven or more residents shall post floor plans which identify evacuation routes and the location of all firefighting equipment and evacuation devices on each floor and wing, if applicable, of the setting.
- E. The licensee shall ensure that evacuation drills are conducted for the community residential setting for all residents on a semi-annual basis for each shift of staff. The licensee shall maintain documentation for two years of the results of each evacuation drill, including the date and time of the drill, the duration of the drill, and the description of the results of the evacuation drill. If any evacuation drill takes longer than three minutes to complete, the licensee shall develop a corrective action plan.
- D. The licensee shall maintain all stairways, hallways, walkways, and other routes of evacuation free from any obstacles that prohibit exit in case of emergency.
- G. Each community residential setting shall have emergency telephone numbers in close proximity to all telephones in the setting for fire, police, and local emergency medical personnel, or 9-1-1, as appropriate for the local community.
- H. The community residential setting shall have a telephone which is capable of ensuring prompt notification of emergencies.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41,

Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-714. Fire Safety Requirements in Community Residential Settings

- A. Each community residential setting shall pass an annual fire inspection by state or local fire authorities. The community residential setting shall comply with all state and local fire safety regulations. The community residential setting shall maintain a written report from the fire authority on file at the setting.
- B. Each community residential setting shall have portable, all-purpose fire extinguishers, in good working order, with a Uniform Fire code minimum rating of 2A, 10 BC as prescribed by fire authorities. Each community residential setting licensee shall ensure that the fire extinguishers are:
 1. Serviced annually or as recommended by the manufacturer; and
 2. Tagged specifying the date of purchase or the date of servicing, whichever is more recent, and the company performing the servicing work, if applicable.
- C. The licensee shall equip the community residential setting with smoke detectors in good working order in each of the following areas:
 1. Bedrooms,
 2. Rooms and hallways adjacent to bedrooms, and
 3. Rooms or hallways adjacent to the kitchen.
- D. The licensee shall maintain a current Fire Risk Profile for the community residential setting.
- E. Each sleeping room in a community residential setting shall have, for emergency exit, at least one operable window or door that opens onto a street, alley, yard, or exit court.
- F. The community residential setting may have locks, bars, grilles, grates, or similar devices installed on windows or doors used for emergency exit provided that such devices are equipped with release mechanisms which are operable from the inside without the use of a key or special knowledge or effort.
- G. Each fireplace in a community residential setting shall have protective screens or metal curtains covering the fireplace at all times.
- H. The licensee shall not store combustible or flammable materials within three feet of furnaces, heaters, or water heaters.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-715. Safe and Functioning Systems Requirements

- A. The licensee shall maintain safe and functioning systems in the community residential setting for the following, including, but not limited to:
 1. Heating and cooling;

2. Ventilation by means of window, air conditioning, or mechanical apparatus;
3. Refrigerated food storage and cooking appliances;
4. Cold water and hot water that does not exceed 120° F. at the faucet.
- B. The licensee shall maintain all electrical equipment in a safe working order in the community residential setting.
- C. The community residential setting shall have electrical lighting in each room.
- D. Each community residential setting shall have safe and functioning systems for plumbing and sewage disposal as evidenced by the availability of operable drains in showers, tubs, sinks, and toilets and the absence of standing water in areas not specifically designed to hold water. If the community residential setting uses a septic tank system, the system shall be in working order with no visible leakage.

Historical Note

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R6-6-716. Clean and Sanitary Conditions

- A. The community residential setting shall not have an accumulation of litter, rubbish, or garbage on the premises. Litter, rubbish, and garbage outside of the building shall be contained in cleanable receptacles with lids or sealed disposable plastic containers and shall be removed from the property not less than once a week.
- B. The licensee shall ensure that the community residential setting is free from, or has an on-going system to eradicate, insects, rodents, and other vermin.
- C. The licensee shall ensure that the premises of community residential setting is free from any other unsanitary condition that jeopardizes a client's health.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-717. Vehicle Safety

- A. Vehicles operated by the community residential setting or its staff to transport residents shall:
 1. Be maintained in a safe, working order;
 2. Have working heating and air conditioning; and
 3. Be equipped with working seat belts for the driver and each passenger.

- B. If the vehicle is used to transport persons in wheelchairs, it shall also be equipped with floor-mounted seatbelts and wheelchair lock-downs for each wheelchair that it transports.

Historical Note

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R6-6-718. Hazards and Dangers

- A. The community residential setting shall be free from sharp protruding objects and hazardous equipment.
- B. Ramps, stairs, or steps in a community residential setting shall have slip-resistant surfaces.
- C. Handrails or grab bars in a community residential setting shall be securely installed.
- D. The licensee shall ensure that employees do not bring firearms or ammunition into a community residential setting.
- E. There shall be no unprotected wells, ditches, or holes into which a person can step or fall on the premises of a community residential setting.
- F. The licensee shall ensure that cleaning compounds and toxic substances are labeled and that cleaning supplies are stored in a safe and sanitary manner.
- G. Bathtubs and showers shall have safety strips, rubber bath mats, or non-slip floor surfaces.
- H. The licensee shall remove unused furniture, equipment, or other devices from the premises or place such items in a covered building designed for storage.

Historical Note

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R6-6-719. First-aid Equipment and Supplies

The licensee shall ensure that the community residential setting and each vehicle used to transport residents is equipped with a first-aid kit containing, at a minimum:

1. Five adhesive-strip bandages;
2. Five sterile, individually wrapped, gauze squares;
3. Two packages of roller gauze;
4. One roll of adhesive tape;
5. Five individually wrapped, nonstick, sterile pads;
6. One triangular bandage to be used for a sling;
7. One pair of disposable latex gloves;
8. One pair of scissors;
9. One pair of tweezers; and

10. One cardiopulmonary resuscitation mouth guard or mouth shield.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

ARTICLE 8. PROGRAMMATIC STANDARDS AND CONTRACT MONITORING FOR COMMUNITY RESIDENTIAL SETTINGS

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R6-6-801. Applicability

This Article applies to services provided in community residential settings except those licensed as child developmental foster homes according to Article 10 of this Chapter and those licensed as adult developmental homes according to Article 11 of this Chapter.

Historical Note

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R6-6-802. Compliance

- A. The licensee shall ensure that the community residential setting is operated in compliance with this Chapter.
- B. The licensee shall cooperate with the Division in assessing compliance with this Chapter.
- C. If the Division identifies areas of noncompliance with this Chapter in the operation of a community residential setting, the licensee shall take action to achieve or restore compliance with these rules.
- D. If the Division identifies areas of noncompliance with A.R.S. Title 36, Chapter 5 in the operation of a community residential setting, the Division may enforce corrective action through licensing, programmatic, or contractual remedies.

Historical Note

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review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-803. General Responsibilities of the Licensee

- A.** The licensee shall immediately report at least the following types of incidents via telephone or telefax to the Division:
1. The death of a client;
 2. Alleged neglect or abuse of a resident;
 3. A missing client. The licensee shall report such incident to law enforcement officials and the Division as soon as it determines that a client is missing;
 4. An incident related to a resident that involves law enforcement personnel, emergency services, or the media;
 5. Suicide attempts by a client;
 6. Hospitalization, the intervention of a medical practitioner, or emergency medical care in response to a serious illness, injury, medication errors, or suicidal behavior of a client; and
 7. Community complaints about a resident or the setting.
- B.** The licensee shall cooperate in obtaining and providing any information the Department or a law enforcement agency deems necessary to investigate an incident.
- C.** The licensee shall maintain staff-to-client ratios which at least conform to the contract.

Historical Note

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R6-6-804. Rights of Clients

In addition to the rights required in R6-6-102, the licensee shall uphold and safeguard the rights of residents consistent with applicable federal and state laws, including A.R.S. § 36-551.01, unless legally restricted or addressed in the ISPP in accordance with R6-6-901 et seq. In addition to those rights specifically stated in statute, rights shall include, at a minimum:

1. The right to be free from personal and financial exploitation;
2. The right to a safe, clean, and humane physical environment;
3. The right to own and have free access to personal property;
4. The right to associate with persons of the client's own choosing;
5. The right to participate in social, religious, educational, cultural, and community activities;
6. The right to manage personal financial affairs and to be taught to do so;
7. The right to the least amount of physical assistance necessary to accomplish a task;
8. The right to privacy including during treatment and care of personal needs and with regard to written correspondence, telephone communication, and visitations;
9. The right to have care for personal needs provided, except in cases of emergency, by a direct care staff of the

gender chosen by the responsible person. This choice shall be specified in the ISPP;

10. The right to be treated with dignity and respect; and
11. The right to be provided choices and to express preferences which will be respected and accepted.

Historical Note

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R6-6-805. Program Plans

- A.** Except in cases of emergency, the licensee shall notify the Division and obtain ISPP team approval prior to a client's move from one community residential setting to another setting and prior to relocation of a community residential setting. If the move requires contract modification, the administrator shall also obtain Division approval prior to the move.
- B.** In cases of emergency, the licensee shall coordinate with the Division regarding the notification of the responsible person when a client moves from one community residential setting to another.
- C.** The ISPP team shall convene to develop or revise the ISPP within 30 days following either a client's admission to a community residential setting or a change in community residential licensee.
- D.** The ISPP team shall meet at least annually to develop or amend the complete ISPP for a client, using forms prescribed by the Division.
- E.** The ISPP team for any client residing in a community residential setting shall include a representative of the community residential setting. The representative shall have direct knowledge of the client.
- F.** The licensee shall develop a teaching plan or strategy for each objective assigned to the community residential setting by the ISPP team.
1. The teaching plan shall be consistent with any guidelines provided by the ISPP team.
 2. The teaching plan shall include:
 - a. How, when, and by whom objectives will be implemented;
 - b. The method to be used to record data relative to progress; and
 - c. The procedure that will be followed should the objective be completed or should progress not be made as planned.
 3. The licensee shall provide the teaching plan to the case manager.
- G.** The licensee shall provide, for the annual ISPP team meeting, complete and accurate information on periodic evaluations and medical care received since the last ISPP.
- H.** The ISPP for any client residing in a community residential setting shall specify the duration and conditions for the time that the client may spend without supervision provided by the licensee.
- I.** The licensee shall carry out the objectives, agreements, and assignments specified in the ISPP.

- J.** The licensee shall provide monthly reports to the case manager summarizing the client's progress toward residential habilitation objectives and the status of agreements and assignments specified in the ISPP.

Historical Note

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R6-6-806. Health

- A.** At least annually and on forms prescribed by the Division, the licensee shall obtain written informed consent of the guardian, if applicable, for the provision of emergency medical care, routine medical care, and special procedures.
- B.** Within 30 calendar days of a client's initial admission to a community residential setting, the licensee shall obtain documentation of the following:
1. A physical examination by a medical practitioner;
 2. A tuberculosis screening and results;
 3. A hepatitis B screening and results;
 4. Type of developmental disability;
 5. Medication history;
 6. Immunization history;
 7. History of significant injuries, illnesses, surgeries, and hospitalizations;
 8. History of allergies;
 9. Dental history;
 10. Seizure history;
 11. Developmental history; and
 12. Family medical history.
- C.** The licensee shall maintain records in the place of residence sufficient to document the current health status of the resident. These records shall include, at a minimum:
1. The name, address, and telephone numbers of the health care provider for each resident;
 2. The name and telephone numbers of the health plan and insurance carrier for each resident and the process for authorization of health care for each resident;
 3. Guardianship status for each resident;
 4. The name and telephone number of the responsible party and the person to be contacted in case of emergency for each resident;
 5. Reports of accidents, illness, current treatments, and follow-up for at least one year for each resident;
 6. A description of the client's individualized health care and safety needs, including, at a minimum:
 - a. Allergies;
 - b. Nutritional needs, whether a regular or special diet;
 - c. Special fluid intake needs;
 - d. Seizure activity and recommended response;
 - e. Adaptive equipment, protective devices, and facility adaptations;
 - f. Required medical monitoring;
 - g. References to the behavior treatment plan or the ISPP if there are health care-related issues contained therein;
 - h. Special instructions for carrying, lifting, positioning, bathing, feeding, or other aspects of personal health care; and
 - i. Other individualized health care routines.
- 7.** The client's medical history, which includes updated information on all components identified in subsection (B);
- 8.** Current medication log for each client;
- 9.** Current health care consents for each client, including:
- a. Consent for the use of sedation, mechanical restraint, or protective devices in the course of planned medical or dental procedures or for follow-up;
 - b. Consent for the ongoing or recurring use of a protective device in response to a medical condition; and
 - c. Consent for emergency medical care, routine medical care, and special procedures, if applicable;
- 10.** A copy of "do not resuscitate" orders, for each client, signed by the responsible person, if such an order has been effected.
- D.** The licensee shall maintain medical records in their entirety.
- E.** The licensee shall maintain documentation of medical consultations which include, at a minimum:
1. The date of the medical consultation;
 2. The name and title of the medical professional consulted;
 3. The purpose of the consultation;
 4. A description of the service or treatment provided; and
 5. Instructions for follow-up, if applicable.
- F.** For medications administered by or under the supervision of the direct care staff, the licensee shall ensure that any prescription or nonprescription medications are administered:
1. To a client only with the written or verbal orders of a medical practitioner; and
 2. Only to the person for whom it is prescribed or indicated.
- G.** The licensee shall maintain a log of all prescribed and nonprescribed medications administered to a client by or under the supervision of direct care staff. The medication log shall contain, at a minimum:
1. The name of the client who received the medication;
 2. The name of the medication;
 3. The medication dosage;
 4. The date and time of administration;
 5. The route of administration;
 6. Special instructions for administration of the medication; and
 7. Signature and initials of the direct care staff who administered or supervised the administration of the medication.
- H.** The licensee shall maintain, in a location which is readily accessible to direct care staff who are responsible for medication administration, resource information regarding all medications prescribed for clients living in the setting. The resource information shall include, at a minimum:
1. Name of the medication;
 2. Common side effects and adverse reactions;
 3. Indications for use;
 4. Medication interactions; and
 5. Recommended monitoring.
- I.** The licensee shall store medications in the following manner:
1. Under sanitary conditions;
 2. Consistent with label instructions;
 3. In containers with legible and accurate labels which specify the name of the client for whom the medication is prescribed and the current dosage; and
 4. In locked storage, unless otherwise specified in the client's ISPP.

- J. The licensee shall remove or dispose of medications which are expired or for which the prescription has been discontinued.
- K. When a medication error or reaction is detected, the licensee shall ensure that staff:
 1. Immediately consult medical personnel,
 2. Notify appropriate persons, and
 3. Document the error or reaction and the action taken in response.
- L. The licensee shall monitor on an ongoing basis the condition for which any medications have been prescribed and the response to the medications, in accordance with any recommendations of the medical practitioner. The licensee shall report the client's response to the medical practitioner based on the monitoring. The licensee shall document any medication change made by the medical practitioner and share results with agency staff.
- M. When a medication is prescribed for the purpose of behavior modification, the licensee shall:
 1. Document the behavior for which the medication is prescribed;
 2. Monitor the client's response to the medication on an ongoing basis consistent with the client's needs and the recommendations of the ISPP team;
 3. Document the client's response to the medication, including the frequency and intensity of target behaviors and the occurrence of side effects;
 4. Report to the client's physician regarding the client's response to the medication; and
 5. Document the results of any change made by the physician and share that information with direct care staff.
- N. Except for treatment of medical emergencies, the licensee shall obtain written informed consent from the responsible person and authorization by a medical practitioner for the use of sedation, mechanical restraint, or protective devices in the course of planned medical or dental procedures or in the course of follow-up to such procedures. The licensee shall not use physical restraints, including mechanical restraints as a negative consequence to a behavior, for the convenience of the licensee, or in lieu of a behavior management plan.
- O. The licensee shall ensure that the following conditions are met prior to ongoing or recurring use of a protective device in response to a medical condition:
 1. Authorization for use of the protective device is obtained from a medical practitioner;
 2. Written informed consent is obtained from the responsible person; and
 3. The plan for use of the protective device is reviewed by the ISPP team and reassessed at least annually.
- P. The licensee shall ensure that individualized health care instructions for the client are followed.
- Q. The licensee shall plan for and prepare nutritional meals in accordance with the client's needs and consistent with the client's preferences. If the client is responsible for planning and preparing meals, the licensee shall assist, monitor, and educate the person regarding preparation of nutritionally adequate meals.
- R. The licensee shall keep insecticides, poisonous materials, corrosives, and other hazardous substances in locked storage, unless otherwise specified in the client's ISPP, and in areas away from food and areas where medications are stored or administered.
- S. The licensee shall ensure that bodies of water are fenced. Unsupervised access to bodies of water by the client is prohibited unless specifically allowed by the client's ISPP. The ISPP cannot supersede any local ordinance or state law pertaining to the safety of bodies of water or swimming pools.

Historical Note

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R6-6-807. Records

- A. In addition to health care records as required by R6-6-806, the licensee shall maintain the following programmatic records in the client's place of residence:
 1. A copy of the client's most current annual ISPP which is placed into the records within 15 calendar days of receipt by the licensee;
 2. The teaching plan or strategy for each objective specified in the client's ISPP;
 3. A copy of monthly progress reports for the client, as submitted to the case manager;
 4. Documentation of incidents involving the client;
 5. Behavior treatment plan, if applicable;
 6. All required consents, including, as applicable, consent for use of behavior-modifying medications and consent for release of personally identifiable information, unless these consents are maintained in the main provider record; and
 7. Reference to the location of other pertinent records.
- B. The licensee shall ensure that documents and entries made by agency personnel identify the person making the entry and that all are:
 1. Legible;
 2. Typed or written in ink;
 3. Dated; and
 4. Properly corrected, as necessary.

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R6-6-808. Staff Qualifications, Training, and Responsibilities

- A. The licensee shall maintain documentation of the following for each direct care staff:
 1. Age 18 years or older;
 2. References from persons other than family members;
 3. Knowledge, skills, and experience sufficient to carry out the requirements of the position;
 4. Fingerprinting, fingerprint clearance, and a statement by the direct care staff regarding criminal record; and

5. Current licenses, certifications, or registrations required for the position or required by Arizona statute.
- B.** The licensee shall maintain documentation of the fingerprinting, fingerprint clearance for a license renewal, and employee's statement regarding criminal record for each person required to be fingerprinted according to this Article.
- C.** The licensee shall maintain documentation of successful completion of required training by each direct care staff.
- D.** The licensee shall have and implement a written training curriculum which lists required training topics and which includes for each topic, at a minimum:
 1. Course outline,
 2. Timeliness for completion, and
 3. Criteria for successful completion.
- E.** When a community residential service is delivered, and unless a client is utilizing ISPP-authorized unsupervised time, a direct care staff shall be present who has completed the following required training, at a minimum:
 1. Orientation to the specific needs of clients living in the community residential setting, including their ISPPs and individualized health and safety needs;
 2. Cardiopulmonary resuscitation (CPR), provided by a certified instructor;
 3. First aid, provided by a certified instructor;
 4. Agency health and safety policies and procedures as required by this Article including, at a minimum:
 - a. Client behaviors;
 - b. Incidents;
 - c. Neglect and abuse;
 - d. Medications;
 - e. Detection of signs of injury, illness, infectious diseases, and changes in health status;
 - f. Response to non-emergency conditions requiring prompt medical attention; and
 - g. Procedures to be followed in medical emergencies and in rendering emergency medical care.
 5. Safety procedures, including the agency plan for meeting potential emergencies and disasters, as required by R6-6-713;
 6. Provisions of R6-6-902 related to prohibited practices;
 7. Client intervention techniques, if relevant to the needs of clients in the community residential setting, provided by a certified instructor;
 8. Medication administration, if relevant to the needs of clients in the community residential setting; and
 9. Seizures, if relevant to the needs of clients in the community residential setting.
- F.** Within 14 calendar days of the date the person begins employment at a community residential setting, each direct care staff shall complete an orientation to specific needs of clients living in the community residential setting, including their ISPPs and individualized health and safety needs.
- G.** Within 90 calendar days of the date that the person begins employment at the community residential setting, each direct care staff shall complete the following required training:
 1. Techniques for meeting the individualized health and safety needs of clients living in the community residential setting;
 2. Health and safety, including:
 - a. Cardiopulmonary resuscitation (CPR), provided by a certified instructor;
 - b. First aid, provided by a certified instructor;
 - c. Safety procedures, including the agency plan for meeting potential emergencies and disasters, as required by R6-6-713;
 - d. Medication administration; and
 - e. Seizures.
 3. Mission and values of the Division and the community residential setting;
 4. Agency policies and procedures;
 5. Interactions with clients, including:
 - a. Respect, dignity, and positive interactions with clients;
 - b. Skill-building techniques;
 - c. Prevention of behavioral incidents; and
 - d. Article 9.
 6. ISPP process;
 7. Communication with families;
 8. Client rights; and
 9. Confidentiality.
- H.** Each direct care staff shall also have training relevant to the staff's assigned responsibilities and as necessary to carry out objectives, agreements, and assignments as specified in the ISPP and to meet the client's individualized health care and safety needs.
- I.** Each direct care staff shall review, at least annually, agency policies and procedures required by this Article and the plan for meeting potential emergencies and disasters, as required by R6-6-713.
- J.** After the initial 90-day training, each direct care staff member shall have current training in the following:
 1. Cardiopulmonary resuscitation (CPR), provided by a certified instructor;
 2. First aid, provided by a certified instructor; and
 3. Client intervention techniques, provided by a certified instructor, if relevant to the needs of clients in the community residential setting.

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R6-6-809. Policies and Procedures

- A.** The licensee shall develop and implement policies and procedures which address incidents which occur in the operation of the setting. These policies and procedures shall include, at a minimum:
 1. Definitions of events and circumstances which constitute incidents;
 2. Procedures for verbally reporting and documenting incidents, consistent with the Division's incident reporting procedures; and
 3. Procedures for the review of incidents by the licensee and procedures for the development of corrective action to occur in response to incidents.
- B.** The licensee shall develop and implement policies and procedures on behavior management which are consistent with the requirements of Article 9. These policies and procedures shall include, at a minimum:
 1. Descriptions of positive approaches to behavior management;

2. Procedures for the documentation of maladaptive behaviors not included in the definition of incidents, if applicable;
 3. Procedures for the development of behavior treatment plans; and
 4. Procedures for the licensee to monitor the effectiveness of behavior treatment plans.
- C.** The licensee shall develop and implement written policies and procedures for residents for:
1. The following health-related issues:
 - a. Detection of signs of injury, illness, and changes in health status;
 - b. Detection of infectious diseases and notification to the Division and other appropriate persons;
 - c. Response to non-emergency conditions requiring prompt medical attention; and
 - d. Procedures to be followed in medical emergencies and in rendering emergency medical care.
 2. Medications, including nonprescription medications, used by residents which shall include, at a minimum:
 - a. The training to administer medications;
 - b. The specific, step-by-step procedures staff are to use in the administration of medications. These procedures shall include:
 - i. Prevention of contamination;
 - ii. Instructions for handling various types of medication, including oral, topical, or rectal;
 - iii. Instructions for verifying that the right medication is given to the right person, at the right time, in the proper dosage, and via the proper route; and
 - iv. Instructions for documenting the administration of medication on a log or chart.
 - c. Procedures for recording and reporting medication errors and reactions for residents;
 - d. Procedures for the agency review and corrective action to occur in response to medication errors;
 - e. Procedures for having prescriptions filled and maintenance of an adequate supply of medications;
 - f. Procedures for the safe disposal of expired or discontinued medications;
 - g. Procedures for the storage and inventory of medications;
 - h. Provision for self-administration of medications by a client, with the written approval of the ISPP team, if applicable, including criteria for self-administration and requirements for documentation of administration; and
 - i. Procedures for authenticating, within 72 hours, a medical practitioner's verbal orders for medication.
- D.** The licensee shall develop and implement policies and procedures which address alleged neglect and abuse of residents. These policies and procedures shall include, at a minimum:
1. Definitions and prohibitions in accordance with A.R.S. § 36-569;
 2. Detection of neglect and abuse, including cases occurring outside the agency;
 3. Immediate intervention to prevent further neglect and abuse;
 4. Reporting in accordance with A.R.S. §§ 13-3620 and 46-454 and R6-6-1601 et seq.;
 5. Investigation of alleged neglect and abuse; and
 6. Community residential setting review and corrective action to occur in response.
- E.** The licensee shall develop and implement policies and procedures which address smoking in the community residential setting and which take into account the rights of all residents living in the setting.
- F.** The licensee shall develop policies and procedures which address the storage and use of alcoholic beverages in the community residential setting and which take into account the rights of all residents living in the setting.
- G.** The licensee shall develop and implement policies and procedures regarding the internal communication among agency personnel of events affecting clients living in the community residential setting.
- H.** The licensee shall develop and implement policies and procedures regarding the communication to responsible persons of significant events affecting clients living in the community residential setting.
- I.** The licensee shall develop and implement policies and procedures which address safeguarding, accounting for, and replacing client property and funds.
- J.** The licensee shall develop and implement policies and procedures which ensure adequate staffing, consistent with rules related to staff training as specified in R6-6-808 and staff-to-client ratios as specified in R6-6-803. The policies and procedures shall address, at a minimum, planned and unexpected absenteeism, emergencies, and community activities.
- K.** The licensee shall submit all new or modified policies and procedures required by this Article to the Division for approval.
- L.** The licensee shall incorporate into policies and procedures any revisions required by the Division.
- M.** The licensee shall develop and implement policies and procedures which address the role of the community residential setting in the ISPP process, consistent with the requirements of this Article.
- N.** The licensee shall develop and implement policies and procedures for the maintenance and use of all personally identifiable client information. These policies and procedures shall be consistent with A.R.S. § 36-568.01 and shall address storage, disclosure, retention, and destruction of this information and actions to be taken in the event of violations of these policies and procedures by agency personnel.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-810. Consent for Release of Personally Identifiable Information

- A.** When consent for the release of personally identifiable information is required pursuant to A.R.S. § 36-568.01 for a client residing in a community residential setting, the licensee shall obtain consent from the responsible person. The consent shall:
1. Be signed and dated,
 2. Specify the purposes for the release.
- B.** Notwithstanding the provisions of R6-6-105(B) and (C), the consent for a person residing in a community residential setting is valid for a period of one year from date of signature or up to the date specified in the consent, whichever is less.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-811. Exemption

A licensee may submit to the Division a written request for an exemption of a rule contained in this Article. The request shall demonstrate that the intent of the rule will be met by alternate means and that the exemption will not endanger the lives or health of clients or staff.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

ARTICLE 9. MANAGING INAPPROPRIATE BEHAVIORS

Editor's Note: The following Section was amended, repealed, and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9 and Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-901. Applicability

These rules apply to:

1. All programs operated, licensed, certified, supervised or financially supported by the Division.
2. All habilitation programs as defined in A.R.S. § 36-551(18), as well as all interventions included in this Article, shall be addressed in the client's ISPP.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1). Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-901 repealed, new Section R6-6-901 renumbered from R6-6-902 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended effective August 30, 1994, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-902. Prohibitions

- A. The following behavioral intervention techniques are prohibited:
 1. The use of seclusion (locked time-out rooms).
 2. The use of overcorrection.
 3. The application of noxious stimuli.
 4. Physical restraints, including mechanical restraints, when used as a negative consequence to a behavior.
- B. The use of behavior modifying medications is prohibited, except as specified in R6-6-909, if:
 1. They are administered on an "as needed" or "PRN" basis; or
 2. They are in dosages which interfere with the client's daily living activities; or
 3. They are used in the absence of a behavior treatment plan.
- C. No person shall implement a behavior treatment plan which:
 1. Is not included as a part of the ISPP; and
 2. Falls under R6-6-903(A), without approval of the PRC.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1). Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-902 renumbered to R6-6-901, new Section R6-6-902 renumbered from R6-6-903 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-903. Program Review Committee (PRC)

- A. The ISPP team shall submit to the PRC and Human Rights Committee any behavior treatment plan which includes:
 1. Techniques that require the use of force.
 2. Programs involving the use of response cost.
 3. Programs which might infringe upon the rights of the client pursuant to applicable federal and state laws, including A.R.S. § 36-551.01.
 4. The use of behavior-modifying medications.
 5. Protective devices used to prevent a client from sustaining injury as a result of the client's self-injurious behavior.
- B. The PRC shall be responsible for approving or disapproving plans specified in subsection (A) above and any other matters referred by an ISPP team member.
- C. The PRC shall review and respond in writing within ten working days of receipt of a behavior treatment plan from the ISPP team, either approving or disapproving the plan. The response shall be signed and dated by each member present and shall be transmitted to the ISPP team with a copy to the chairperson of the Human Rights Committee for review and recommendations at its next regularly scheduled meeting pursuant to R6-6-1701 et seq. The response shall include:
 1. A statement of agreement that the interventions approved are the least intrusive and present the least restrictive alternative.
 2. Any special considerations or concerns including any specific monitoring instructions.

3. Any recommendations for change, including an explanation of the recommendations.
- D. Each PRC shall issue written reports, as prescribed by the Division, summarizing its activities, findings and recommendations while maintaining client confidentiality.
 1. On a monthly basis, report to a designated Division representative, with a copy to the chairperson of the Human Rights Committee.
 2. On an annual basis, by December 31 of each calendar year, report to the Assistant Director of the Division of Developmental Disabilities, with a copy to the Developmental Disabilities Advisory Council.
- E. The PRC shall be composed of, but not be limited to, the following persons designated by the District Program Manager:
 1. The District Program Manager or his designee, who shall act as a chairperson.
 2. A person directly providing habilitation services to clients.
 3. A person qualified, as determined by the Division, in the use of behavior management techniques, such as a psychologist or psychiatrist.
 4. A parent of an individual with a developmental disability but not the parent of the individual whose program is being reviewed.
 5. A person with no ownership in a facility and who is not involved with providing services to individuals with developmental disabilities.
 6. An individual with a developmental disability when appropriate.
- F. A PRC shall be separate from but a complement to the ISPP team, and the Human Rights Committee established pursuant to R6-6-1701 et seq.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-903 renumbered to R6-6-902, new Section R6-6-903 renumbered from R6-6-904 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-904. ISPP Team Responsibilities

Upon receipt of the PRC's response and as part of its development of the client's ISPP, the ISPP team shall either:

1. Implement the approved behavior treatment plan; or
2. Accept the PRC recommendation and incorporate the revised behavior treatment plan into the ISPP; or
3. Reject the recommendation in whole or in part and develop a new behavior treatment plan to be resubmitted to the PRC and Human Rights Committee.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-904 renumbered to R6-6-903, new Section

R6-6-904 renumbered from R6-6-905 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-905. Monitoring Behavior Treatment Plans

Each ISPP team shall specifically designate and record in the ISPP the name of a member of the team, excluding those direct service staff responsible for implementing the approved behavior treatment plan, who shall:

1. Ensure that the behavior treatment plan is implemented as approved.
2. Ensure that all persons implementing the behavior treatment plan have received appropriate training as specified in R6-6-906.
3. Ensure that objective, accurate data are maintained in the client's record.
4. Evaluate, at least monthly, collected data and other relevant information as a measure of the effectiveness of the behavior treatment plan.
5. Conduct on-site observations not less than twice per month and prepare, sign, and place in the client's record a report of all observations.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-905 renumbered to R6-6-904, new Section R6-6-905 renumbered from R6-6-906 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-906. Training

- A. Any person who is involved in the use of a behavior treatment plan shall be trained by the Division or trained by an instructor approved by the Division prior to such involvement.
- B. Initial training shall cover at a minimum:
 1. Provisions of law related to:
 - a. Interventions; particularly this Article and 42 CFR 483.450 October 1, 1992), incorporated herein by reference and on file with the Office of the Secretary of State;
 - b. Legally mandated rights of individuals with developmental disabilities; particularly A.R.S. §§ 36-551.01, 36-561 and 42 CFR 483.420 (October 1, 1992), incorporated herein by reference and on file with the Office of the Secretary of State;

- c. Confidentiality; particularly A.R.S. §§ 41-1959 and 36-586.01 and 42 CFR 483.410(c)(2) (October 1, 1992), incorporated herein by reference and on file with the Office of the Secretary of State.
 - d. Abuse and neglect prohibitions pursuant to A.R.S. § 36-569.
- 2. Intervention techniques, treatment and services, particularly addressing the risks and side effects that may adversely affect clients.
- 3. A general orientation to:
 - a. Division goals with respect to the provision of services to people with developmental disabilities.
 - b. Related policies and instructions of the Division.
- C. With respect to the use of interventions, training shall include hands-on or practical experience to be conducted by instructors approved by the Division, using a curriculum approved by the Division, and who have experience in the actual use of interventions as opposed to administrative responsibility for such use.
- D. In addition to initial training, the Division shall ensure that refresher training is available as necessary to maintain currency in knowledge and recent technical trends related to intervention for the management of inappropriate behavior.
- E. Physical management techniques shall only be used by those persons specifically trained in their use.
- F. The following records and documents related to training shall be maintained by the Division for five years and be available for public inspection.
 - 1. A summary of the training plan adopted by the Division in compliance with this Section, including schedules, instructors, topics, and expressed parameters of the hands-on or practical experience component of the training.
 - 2. Required special knowledge, skills, training, education or experience of the instructors related to managing inappropriate behaviors.
 - 3. A list of persons satisfactorily completing initial and refresher courses and course dates.
- G. The Division shall review the training plan at least every two years for compliance with all applicable provisions of law and Division policy as well as for the protection of clients.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-906 renumbered to R6-6-905, new Section R6-6-906 renumbered from R6-6-907 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-907. Sanctions

For programs operated, licensed, certified, supervised or financially supported by the Division, failure to comply with any part of this Article may be grounds for suspension or revocation of a license, for termination of contract, employment, or for any other applicable administrative or judicial remedy.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-907 renumbered to R6-6-906, new Section R6-6-907 renumbered from R6-6-908 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-908. Emergency Measures

- A. Physical management techniques employed in an emergency to manage a sudden, intense, or out-of-control behavior shall:
 - 1. Use the least amount of intervention necessary to safely physically manage an individual.
 - 2. Be used only when less restrictive methods were unsuccessful or are inappropriate.
 - 3. Be used only when necessary to prevent the individual from harming self or others or causing severe damage to property.
 - 4. Be used concurrently with the uncontrolled behavior.
 - 5. Be continued for the least amount of time necessary to bring the individual's behavior under control.
 - 6. Be appropriate to the situation to insure safety.
- B. When an emergency measure, including the use of behavior modifying medications pursuant to R6-6-909(D), is employed to manage a sudden, intense, out-of-control behavior, the person employing that measure shall:
 - 1. Immediately report the circumstances of the emergency measure to the person designated by the Division and to the responsible person.
 - 2. Provide, within one working day, a complete written report of the circumstances of the emergency measure to the responsible person, the case manager, the chairperson of the Program Review Committee, and the Human Rights Committee.
 - 3. Request that the case managers reconvene the ISPP team to determine the need for a new or revised behavior treatment plan when any emergency measure is used two or more times in a 30-day period or with any identifiable pattern.
- C. Upon receipt of a written report as specified in paragraph (B)(2) above, the PRC shall:
 - 1. Review, evaluate and track reports of emergency measures taken; and
 - 2. Report, to a person designated by the Division, instances of possible excessive or inappropriate use of emergency measures on a case-by-case basis for corrective action.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-908 renumbered to R6-6-907, new Section R6-6-908 renumbered from R6-6-909 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-909. Behavior-modifying Medications

- A. The Division shall make available the services of a consulting psychiatrist who shall review cases and provide recommendations to prescribing physicians to ensure that the medication prescribed is the most appropriate in type and dosage to meet the client's needs.
- B. Behavior-modifying medications shall be prescribed and administered only:
 - 1. When, in the opinion of a licensed physician, they will be effective in producing an increase in appropriate behaviors; and it can be justified that the harmful effects of the behavior clearly outweigh the potential negative effects of the behavior modifying medication.
 - 2. As part of a behavior treatment plan in the ISPP.
 - 3. With the informed consent of the responsible person.
- C. The Division shall provide the following monitoring, in addition to that specified in R6-6-905, for all behavior treatment plans that include the use of a behavior-modifying medication:
 - 1. Ensure that collected data relative to the client's response to the medication is evaluated, at least quarterly, at a medication review by the physician and the member of the ISPP team designated pursuant to R6-6-905 and other members of the ISPP team as needed.
 - 2. Ensure that each client receiving a behavior-modifying medication is screened for side effects, and Tardive Dyskinesia as needed, and that the results of such screening are:
 - a. Documented in the client's case record;
 - b. Provided immediately to the physician, responsible person, and ISPP team for appropriate action if the screening results are positive; and
 - c. Provided to the Program Review Committee and the Human Rights Committee within 15 working days for review of screening results that are positive.
- D. In the event of an emergency, a physician's order for a behavior modifying medication may, if appropriate, be requested for a specific one-time emergency use. The person administering the medication shall immediately report it pursuant to R6-6-908(B).
- E. The responsible person shall immediately be notified of any changes in medication type or dosage.

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-909 renumbered to R6-6-908, new Section R6-6-909 renumbered from R6-6-910 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the

Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-910. Renumbered

Historical Note

Adopted effective February 21, 1990 (Supp. 90-1).
 Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-910 renumbered to R6-6-909 effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 10. CHILD DEVELOPMENTAL FOSTER HOME LICENSE

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1001. Application for License

- A. Married or single persons desiring to be licensed as a child developmental foster home shall apply for a license to the Division on the prescribed forms.
- B. The license applicant and any adult member of the household shall be fingerprinted for a criminal history record check. Any adult living on the premises and not residing in the home may be required to be fingerprinted for a criminal history record check.
- C. The license applicant, any adult member of the household, and any adult living on the premises shall authorize the Division to perform a background check through Adult Protective Services and Child Protective Services referral files.
- D. The license applicant shall participate in interviews with the Division and the home-study process as required by the Division. The home-study process shall include:
 - 1. An interview of all members of the license applicant's household,
 - 2. An interview of other knowledgeable parties as the Division determines appropriate, and
 - 3. An inspection of the physical premises by the Arizona Department of Health Services and the Division for compliance with this Article.
- E. To be eligible for licensure as a Child Developmental Foster Home, the license applicant shall:
 - 1. Be at least 21 years of age,
 - 2. Have income or resources independent of the Division room-and-board payments to meet the needs of the license applicant's family unit,
 - 3. Not have employment that conflicts with the care and supervision of the foster child,
 - 4. Be of reputable and honest character; and
 - 5. Submit documentation that each child living in the home has received the immunizations appropriate to the child's age and state of health unless the license applicant has submitted a signed statement that the children have not been immunized because of affiliation with a religion which is opposed to such immunizations or because the license applicant is opposed to such immunizations.

- F. The license applicant and members of the household shall cooperate with the Division in obtaining information necessary to determine if the home meets the requirements of this Article. Such cooperation shall include, but is not limited to:
1. Providing releases of information;
 2. Authorizing release of medical records; and
 3. Submitting to psychological, psychiatric, drug testing, or other evaluations as required by the Division.
- G. The license applicant shall provide the Division with a minimum of three references who are familiar with the applicant's family and are not related to the license applicant by blood or by marriage. The Division may contact the references for further information regarding the character of the license applicant and ability of the license applicant to care for children with developmental disabilities.
- H. The Division may require the license applicant to submit references from current or previous employers.
- I. All members of the license applicant's household shall agree with the decision to be licensed as a child developmental foster home.
- J. The license applicant shall demonstrate an understanding of and the ability to meet the emotional, physical, social, developmental, educational, and intellectual needs of children.
- K. The license applicant shall demonstrate the ability to nurture, to provide intellectual stimulation, to be sensitive to the needs of the foster children, and to protect children placed in the applicant's home from harm.
- L. The license applicant shall not have any medical or emotional problems that may prevent the person from properly caring for foster children or that may negatively impact on foster children in the home.
1. Following approval of the home study by the Division, the license applicant shall submit, on forms prescribed by the Division, written statements from a licensed medical practitioner for each adult living in the home. The statement shall include the following:
 - a. Confirmation that the physician has examined the adult in the last six months,
 - b. A description of the person's general physical and emotional health,
 - c. A list of all regularly prescribed medications and the purpose of the medication, and
 - d. Identification of any medical or emotional problems that may prevent the person from caring for foster children or may impact on foster children in the home.
 2. The Division may require the license applicant to submit physician statements as described in this Section for other adults living on the premises.
- M. The license applicant shall attend precicensure training as required by R6-6-1005.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1002. Issuing an Initial License

- A. The license applicant shall comply with the requirements of this Article.
- B. Except as provided in R6-6-1004(C), a regular license is effective for one year from the date of issuance.
- C. Based upon records, reports, and observations, if the Division determines that the license applicant may be unable to meet the physical or emotional needs of clients, the Division may require further psychological or physical evaluations, at no expense to the license applicant, to determine whether a license may be issued.
- D. A regular license for a child developmental foster home is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1003. Issuing a Renewal License

- A. A regular license is renewable annually for a one-year period.
- B. The Division shall renew a child developmental foster home regular license when:
1. The licensee has met the annual training requirements of R6-6-1005;
 2. The home meets the requirements of R6-6-1001, except as noted in this paragraph:
 - a. The licensee shall submit a written statement every three years from the date of initial licensure from a licensed medical practitioner indicating that no adult living in the home or on the premises has any medical, emotional, or psychological problems that would adversely impact on the health and welfare of a child with developmental disabilities.
 - b. References are not required for license renewal.
 - c. The child developmental foster home shall receive a health inspection from the Arizona Department of Health Services every three years prior to license renewal, unless otherwise indicated by this Article.
 3. Any person fingerprinted pursuant to R6-6-1001(B) and who is still residing in the home shall have a criminal record check every three years.
- C. Based upon records, reports, and observations, if the Division determines that the license applicant for license renewal may be unable to meet the physical or emotional needs of clients, the Division shall have the authority to require further mental or physical evaluations, at no expense to the license applicant, to determine whether to renew a license.
- D. A license to provide child developmental foster home services is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1004. Issuing a Provisional License

- A. The Division may issue a provisional license for up to six months when:
 - 1. The license applicant is temporarily unable to meet the requirements of this Article, and
 - 2. The Division is satisfied that the listed deficiencies can be corrected within six months or less by the license applicant.
- B. The Division shall not issue a provisional license pursuant to A.R.S. § 36-592 when conditions exist which could endanger the health or safety of the children.
- C. When the licensee has met the requirements of the provisional license and a regular license is issued, the regular license is valid for one year from the date the Division issued the provisional license.
- D. A provisional license for a child developmental foster home is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

R6-6-1004.01. Time-Frame for Granting or Denying a License

For the purpose of A.R.S. § 41-1073, the Division establishes the following licensing time-frames:

- 1. Administrative completeness review time-frame:
 - a. For an initial license, 90 days;
 - b. For a renewal license, 30 days; and
 - c. For an amended license, 30 days.
- 2. Substantive review time-frame:
 - a. For an initial license, 30 days;
 - b. For a renewal license, 31 days; and
 - c. For an amended license, 10 days.
- 3. Overall time-frame:
 - a. For an initial license, 120 days;
 - b. For a renewal license, 61 days; and
 - c. For an amended license, 40 days.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1004.02. Administrative Completeness and Substantive Review Process

- A. The Division shall send the license applicant a written notice within the administrative completeness review time-frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the Division shall list the missing information in the notice and ask the license applicant to supply the missing information within 60 days from the date of notice. If the license applicant fails to do so, the Division may close the file.
- C. A license applicant whose file has been closed and who later wishes to become licensed may reapply to the Division. The administrative completeness time-frame starts over when the Division receives the written request to reapply.

- D. When the application is complete, the Division shall complete a substantive review of the license applicant's qualifications. The Division shall:
 - 1. Review the application form and all required documents to ensure compliance with this Article;
 - 2. Complete a home study as prescribed in R6-6-1001(D); and
 - 3. Gather additional information needed to determine the license applicant's fitness to serve as a foster parent and ability to comply with foster care requirements, which may include:
 - a. Interviewing the license applicant;
 - b. Contacting references;
 - c. Verifying information provided in the application;
 - d. Visiting the license applicant's home; and
 - e. Requesting additional information, assessments, or tests as prescribed in R6-6-1001(F) and R6-6-1003(C).
- E. If a license is denied, the Division shall send a notice to the license applicant as prescribed in R6-6-1018(F) and A.R.S. § 41-1076.
- F. An applicant shall submit a license application package to DES/DDD, P.O. Box 6123, Site Code 791A, Phoenix, Arizona 85005-6123, Attention: Developmental Home Licensing Unit.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1004.03. Contents of a Complete Application Package - Initial License

An initial application package is complete when the Division has all of the following information:

- 1. From the license applicant, a completed application form as prescribed in R6-6-1001(A) which contains the following information:
 - a. Personally identifying information, as follows:
 - i. Name and gender,
 - ii. Date and place of birth,
 - iii. Social security number,
 - iv. Ethnicity and religious preference,
 - v. Current and previous address,
 - vi. Dates resided at previous address,
 - vii. Length of Arizona residency,
 - viii. Current marital status and marital history, and
 - ix. Any other names by which the license applicant has been known.
 - b. Personally identifying information on the license applicant's household members, as follows:
 - i. Name,
 - ii. Gender,
 - iii. Date of birth,
 - iv. Relationship to license applicant, and
 - v. Length of time living in the home.
 - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
 - i. Name;
 - ii. Current address;
 - iii. Date of birth; and
 - iv. Occupation or school, if currently attending.
 - d. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
 - i. Type of license or certificate;
 - ii. Date of each license and certificate;

Department of Economic Security - Developmental Disabilities

- iii. State in which each license or certificate was issued;
- iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended, and the circumstances; and
- v. Name of any other agency with which the license applicant is currently licensed or certified to provide services to children or adults.
- e. A description of the license applicant's home, as follows:
 - i. The name of the school district in which the license applicant's home is located;
 - ii. Identification and description of any swimming pool, spa, fish pond, or other body of water; and
 - iii. Number of bedrooms.
- f. Information about the license applicant, as follows:
 - i. Educational background;
 - ii. Employment history;
 - iii. Previous experience in providing room and board for any person;
 - iv. Any contact with Child Protective Services (CPS) or Adult Protective Services (APS) and the circumstances;
 - v. Any arrests and the circumstances;
 - vi. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
 - vii. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
 - viii. The reason for wanting to provide foster care;
 - ix. Gender, age, characteristics, and special needs of the individual the license applicant would prefer to take into the home;
 - x. Any experience caring for individuals who have special needs;
 - xi. Discipline techniques used or believed appropriate for rearing children; and
 - xii. Anticipated changes in the license applicant's family in the next 12 months.
- g. Information about the license applicant's household members, as follows:
 - i. Any contact with CPS or APS by anyone currently or formerly residing with the license applicant and the circumstances;
 - ii. Any arrests and the circumstances;
 - iii. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
 - iv. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of supervisor, and name of the program;
 - v. Any experience caring for individuals with special needs; and
 - vi. Discipline techniques used or believed appropriate for rearing children.
- h. Reference information for the license applicant, as follows:
 - i. Three references who can attest to the license applicant's character and skill; and
 - ii. If the license applicant is working or has worked with children or adults with developmental disabilities, 1 employment reference;
- i. List of any individuals who live on the property on which the license applicant's home is located but not in the license applicant's home.
- 2. From the license applicant, the following documents as listed on the application form:
 - a. A completed declaration of criminal history for the license applicant and each adult household member on a Division form with the following information:
 - i. Name,
 - ii. Social security number,
 - iii. Date of birth,
 - iv. Address,
 - v. A declaration of whether the individual has committed any of the crimes listed in A.R.S. § 36-594(3) and R6-6-1018, and
 - vi. Dated signature.
 - b. Documentation showing that the license applicant and each adult household member have been fingerprinted;
 - c. Documentation showing that the license applicant has a current driver's license, and current vehicle liability insurance as prescribed in R6-6-1012(A);
 - d. A completed monthly budget on a Division form showing the license applicant's monthly income, and monthly expenses, and the circumstances for any declaration of bankruptcy;
 - e. A physician's statement for the license applicant and each adult household member as prescribed in R6-6-1001(L);
 - f. Documentation of current immunizations for each child living in the license applicant's home as prescribed in R6-6-1001(E)(5);
 - g. Documentation that the license applicant has completed training as prescribed in R6-6-1005(A).
- 3. From sources other than the applicant, the documents listed on the application form, as follows:
 - a. Three letters of reference for the license applicant as prescribed in R6-6-1001(G);
 - b. If the license applicant works with children or adults with developmental disabilities, 1 employment letter of reference as prescribed in R6-6-1001(H);
 - c. Documentation that the license applicant and each adult household member have had a criminal history check as prescribed in R6-6-1001(B);
 - d. Documentation showing that the license applicant's home has passed:
 - i. A fire inspection as prescribed in R6-6-1011(E), and
 - ii. A health and safety inspection as prescribed in R6-6-1011(D).
 - e. Documentation that vehicles used for transporting foster children have passed a Division safety inspection to meet the safety requirements set forth in R6-6-1012(B); and
 - f. Documentation that the CPS/APS Central Registry has been checked as prescribed in R6-6-1001(C).

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1004.04. Contents of a Complete Application Package - Renewal License

A license renewal application package is complete when the Division has all the following information:

1. From the license applicant, a completed renewal application form as prescribed in R6-6-1001(A) which contains the following information:
 - a. Personally identifying information, as follows:
 - i. Name,
 - ii. Address, and
 - iii. Phone number.
 - b. Personally identifying information on the license applicant's household members, as follows:
 - i. Name,
 - ii. Gender,
 - iii. Age,
 - iv. Relationship to the license applicant, and
 - v. School or occupation.
 - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
 - i. Name;
 - ii. Age;
 - iii. Address; and
 - iv. Occupation or school, if currently attending.
 - d. Information about the license applicant, as follows:
 - i. Any arrest or investigation for a criminal offense, including charge, and arresting agency; and
 - ii. Any referral to or treatment for a psychiatric or psychological problem, including substance abuse, in the last year.
 - e. Information about the license applicant's household members, including:
 - i. Any arrest or investigation for a criminal offense, including charge, and arresting agency;
 - ii. Any referral to or treatment for a psychiatric or psychological problem, including substance abuse, in the last year.
 - f. Any current or prior license or certificate held by the license applicant to provide care to a child or adult, as follows:
 - i. Type of license or certificate;
 - ii. Date of each license and certificate;
 - iii. State in which the license or certificate was issued;
 - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended, and the circumstances; and
 - v. Name of any other agency with which the license applicant is currently licensed or certified to provide services to children or adults.
 - g. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home;
 - h. List of the household members and their relationship to the applicant and each other;
 - i. Any changes that should be made to the license conditions;
 - j. Dated signature.
2. From the license applicant, the items listed in R6-6-1004.03(2)(c), (2)(d), (2)(f), and the following:
 - a. A completed declaration of criminal history for each new adult household member and, at 3-year intervals, a completed declaration for all adult household members;
 - b. Documentation showing that each new adult household member has been fingerprinted and, at 3-year intervals, that all adult household members have been fingerprinted;
 - c. A physician's statement every 3 years from the date of the initial license for the license applicant and all adult household members; and
 - d. Documentation that the license applicant has completed training as prescribed in R6-6-1005(B).
3. From sources other than the applicant, the documents listed in R6-6-1004.03(3)(d)(i), (3)(e), and (3)(f) and the following:
 - a. Documentation that each new adult household member has had a criminal history check and that all adult household members have had a criminal history check every 3 years, and
 - b. Documentation that the license applicant's home has passed a health and safety inspection every 3 years since the date of the initial license.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1004.05. Contents of a Completed Request for an Amended License

A request for an amended license is complete when the Division has the following:

1. A description of the change requested to the license, and
2. Documentation that the requested change complies with this Article.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1005. Training Requirements for Child Developmental Home Foster Parents

- A. A license applicant for an initial license as a Child Developmental Foster Home shall meet the following training requirements:
 1. Prelicensing training in the following subjects:
 - a. Cardiopulmonary resuscitation appropriate for children and adults provided by an instructor certified in cardiopulmonary resuscitation;
 - b. First aid provided by an instructor certified in first aid; and
 - c. Child developmental foster home parent orientation training of 16 to 20 hours, as determined by the Division.
 2. Up to ten additional hours of training based upon the needs of the license applicant or the foster child, as determined by the Division.
- B. The licensee shall annually complete a minimum of ten hours of training, as required by the Division, prior to license renewal and must maintain all certifications obtained for the initial licensure. Up to four hours of the annual training may be allowed for training related to maintenance of certifications.
- C. The license applicant or licensee shall participate in additional training based upon the specific needs of the foster family or a child placed in the foster home, as required by the Division, or

shall demonstrate the ability to meet the needs of a specific child.

- D. The license applicant or licensee shall submit documentation which demonstrates satisfactory completion of these training requirements to the Division.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1006. Foster Parent Responsibilities in Child Developmental Foster Homes

- A. The licensee shall provide the child with positive emotional support and guidance including but not limited to:
 1. Including the child in daily activities;
 2. Providing the child with positive reinforcement;
 3. Assisting the child with day-to-day concerns with school, with friends, and with family;
 4. Providing appropriate care, concern, and support;
 5. Protecting the child from harm; and
 6. Assisting the child in developing and fostering personal relationships.
- B. The licensee shall follow written and verbal instructions and orders from qualified professionals regarding the medical, dental, habilitative, and therapeutic needs of the child.
- C. The licensee shall provide opportunities for social and physical development appropriate to the child's developmental level and interest, through recreation and leisure-time activities.
- D. The licensee shall cooperate with the Division in providing opportunities for the child to pursue the child's own religious beliefs or those of the child's parent, family, or guardian. The licensee shall not require the child to participate in the licensee's religious activities or practices.
- E. The licensee shall assign tasks and work appropriate to the child's age and abilities and which do not present a health or safety hazard and do not interfere with the child's educational or recreational activities.
- F. The licensee shall ensure children are dressed each day in clothing which is clean and appropriate to the age of the child, the climate, and the situation.
- G. The licensee shall provide a well-balanced and adequate diet to meet the nutritional needs of the child.
- H. The licensee shall ensure that the child has transportation to meet the educational, medical, habilitative, therapeutic, and social needs of the child.
- I. The licensee shall make reasonable efforts to support and maintain the child's relationships with parents, guardians, other family members, and other persons important to the child's life, approved or as required by the Division, the child-placing agency, or the courts.
- J. The licensee shall ensure that visitations or outings with other adults, without the licensee present, have the prior approval of the Division or are consistent with the child's ISPP or case plan.
- K. The licensee shall ensure that money designated for the child is only used for the specific purpose intended and for the benefit of the child.

- L. The licensee shall provide appropriate hygiene for the child including bathing, tooth brushing, hair care, toileting, diapering, menstrual care, and shaving, as appropriate.
- M. The licensee shall not provide foster care or respite care to adults in the licensee's home.
- N. The licensee shall provide care only for the number of children and conditions listed on the license.
- O. The licensee shall obtain approval from the Division before accepting placements from other agencies or private parties.
- P. When the child developmental foster home also provides respite services, the licensee shall ensure that the respite placement is within the conditions stated on the Child Developmental Foster Home license.
- Q. The licensee shall not accept adult roomers or boarders without prior approval of the Division.
- R. The licensee shall treat information concerning a child placed in the licensee's home and the child's family and guardian as confidential in accordance with A.R.S. § 36-568.
- S. The licensee shall participate in the IEP meetings, unless otherwise specified by the Division, and advocate for the implementation of the IEP.
- T. The licensee shall participate in the ISPP meetings, shall carry out the tasks identified by the ISPP team as being the responsibility of the licensee, and shall advocate for the implementation of the ISPP.
- U. The licensee shall cooperate with the Division when a foster child moves from the foster home by:
 1. Providing information, including the records required in R6-6-1010(A) and (C);
 2. Ensuring personal belongings such as usable clothing, furniture, television sets, bicycles, toys, and other items purchased specifically for the child go with the child; and
 3. Assisting the Division in preparing the child for the move.
- V. The licensee shall comply with the terms of the Child Developmental Foster Home Parent Agreement.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1007. Behavior Management

- A. The licensee shall comply with the Division's requirements for behavior management as specified in Article 9.
- B. The licensee shall establish well-defined rules which set the limits of behavior.
- C. The licensee shall provide discipline appropriate to the age, life experience, and individuality of each child:
 1. The licensee shall develop and implement fair, reasonable, age- and developmentally appropriate, and consistent rewards and consequences for implementing the rules established in subsection (B).
 2. The licensee shall not use discipline which deprives the child of food, shelter, or medical care.
 3. The licensee shall not use any form of corporal or physical punishment.

4. The licensee shall not participate in the use of verbal abuse or derogatory remarks.
- D. The licensee shall identify behavioral issues and report them to the Division.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1008. Sleeping Arrangements

The licensee shall provide appropriate, comfortable, and safe sleeping arrangements for each child consistent with the requirements of this Section.

1. Each child shall have his or her own bed and place to store clothing and personal belongings.
2. No child shall sleep in an unfinished room, a hallway, or any room which is normally used for other than sleeping arrangements by family members.
3. A child six years of age or older shall not share a bedroom with persons of the opposite sex.
4. A child shall not share a bedroom with an adult except in the following circumstances:
 - a. A child under two years of age may share a bedroom with the licensee.
 - b. A child two years of age and older may share a bedroom with the licensee for special temporary care, such as during the child's illness or as specified in the ISPP.
5. The licensee shall sleep within hearing distance of the child.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1009. Notification Requirements

- A. The licensee shall notify the Division or placing agency of the following events:
 1. An addition to the foster home, structural remodeling of the foster home, or addition of a swimming pool or spa. The licensee shall provide prior notification to the Division and shall cooperate with the Division in obtaining an Arizona Department of Health Services inspection as prescribed in A.R.S. § 8-504;
 2. Changes in marital status or living arrangement of the licensee;
 3. A plan to make a change in location of residence;

4. Arrests, indictments, or convictions of any household member or of persons living on the premises;
5. Serious injury, illness, illegal substance use or substance abuse, suicidal behavior, attempted suicide, or death of any foster family member. The Division may require the licensee provide written documentation from a physician regarding the change in medical status;
6. Changes which impact on the ability of the foster family to meet the needs of the child;
7. Addition of a new household member shall be made to the Division prior to the addition;
8. A temporary visitor staying more than one month; and
9. A change in the primary care giver or a person leaving the household who contributed to the care of the child. Notification shall be made to the Division prior to the change.
- B. For children placed by the Division in the licensee's home, the licensee shall notify the Division of incidents including but not limited to:
 1. Possible child abuse or neglect as per A.R.S. § 13-3620 and R6-6-1601;
 2. Hospitalization, the intervention of a medical practitioner, or emergency medical care as a result of serious illness, injury, medication error, or suicidal behavior;
 3. Death of a child;
 4. A child missing. A child missing must be reported to law enforcement officials and the Division as soon as the child is determined to be missing;
 5. Theft of money or property;
 6. Incidents which involve or may potentially involve the police or media;
 7. Significant damage to the property of the child, the property of the state, the property of the licensee, or the property of others; and
 8. Illegal substance use or substance abuse.
- C. The licensee shall obtain prior approval from the Division for alternative supervision plans. Alternate supervision shall only be provided by persons 18 years of age or older.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1010. Recordkeeping

- A. The licensee shall maintain a record for each child which shall include the child's medical history, dental history, educational experiences, and habilitation services.
- B. The licensee shall obtain and provide to the Division receipts for expenditures for the child, as required by the Division.
- C. The licensee shall maintain a personal record for the child, which may include momentos, photos, letters, cards, report cards, school projects, art, and toys.
- D. The licensee shall keep copies of all licenses, certificates, and correspondence in a separate file to document compliance with sanitation, health, and environmental codes of state and local authorities.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1011. Health and Safety Standards in Child Developmental Foster Homes

- A. The licensee shall maintain the premises of the child developmental foster home in a clean and sanitary condition to the degree that it does not present a health or safety hazard.
- B. The child developmental foster home shall not have an accumulation of litter, rubbish, or garbage on the premises. Litter, rubbish, and garbage shall be contained in cleanable containers with lids or sealed disposable containers and shall be removed from the property not less than once a week.
- C. The licensee shall ensure that the child developmental foster home is free from, or has an ongoing system to eradicate, insects, rodents, and other vermin.
- D. Before initial licensure and every three years thereafter, the child developmental foster home shall be inspected and meet the safety and sanitation guidelines of the Department of Health Services unless otherwise specified by the Division.
- E. Child developmental foster homes located in mobile homes shall pass an annual fire safety inspection as arranged by the Division.
- F. The licensee shall keep toxic, poisonous, hazardous, and corrosive materials in locked storage separate from food or medications, unless otherwise specified in the ISPP.
- G. The licensee shall keep medicines in locked storage separate from food, toxic, poisonous, hazardous, or corrosive materials.
- H. The licensee shall keep firearms in locked storage and shall keep ammunition locked separately from the firearms.
- I. Bedrooms shall have light, ventilation, and a usable, unobstructed exit to the outside in case of an emergency.
- J. Telephone service or similar two-way communication methods shall be available in the home and shall be in working order.
- K. Any permanent body of water shall be fenced and inaccessible to children and shall meet the guidelines of the Arizona Department of Health Services unless otherwise specified by the Division.
- L. The licensee shall not allow foster children in swimming pool areas or in the area of other bodies of water unless supervised by a responsible adult or as specified in the ISPP.
- M. The licensee shall store alcoholic beverages responsibly.
- N. The licensee shall not use tobacco products while in an enclosed area with a foster child.
- O. The licensee shall make reasonable efforts to ensure family pets do not present a health or safety hazard to foster children.
- P. The licensee shall develop a fire evacuation plan and shall periodically practice the plan with the household members. The licensee shall update the fire evacuation plan as needed based on placement changes, household member changes, or structural changes to the foster home.
- Q. The licensee shall equip the child developmental foster home with smoke detectors and fire extinguishers which are in good working order.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1012. Transportation

- A. A licensee who transports foster children shall have a current and valid driver's license and shall have liability insurance for any vehicle which will be used to transport foster children. A child developmental foster home household member who transports children must be 18 years of age or older and must be identified to the Division.
- B. A licensee shall ensure that each vehicle used for transporting foster children is maintained in a safe operating condition.
- C. The licensee shall ensure foster children wear seat belts or use an appropriate child safety seat while being transported.
- D. A vehicle used to transport children in wheelchairs shall also be equipped with floor-mounted seat belts and wheelchair lock-downs for each wheelchair being transported.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1013. Dual Licensure or Certification of Child Developmental Foster Homes

- A. Foster parents licensed pursuant to A.R.S. § 8-509 shall cooperate with the certification process of the Division to care for children with developmental disabilities.
 1. To be granted certification the home shall meet all requirements of this Article.
 2. The licensee shall cooperate with the Division in the annual certification study.
 3. A licensee certified by the Division shall not be certified to serve more than a total of three children.
 4. The licensee shall cooperate with a home visit as part of the certification process.
- B. Foster parents residing off-reservation and licensed by a tribal jurisdiction shall also be licensed by the Division for children placed by the Division.
 1. To be granted licensure, the home shall meet all requirements of this Article.
 2. Foster parents licensed by a tribal jurisdiction, seeking licensure by the Division, shall sign a release of information from the tribal licensure files.

3. A person licensed by the Division as a Child Developmental Foster Home shall not be licensed to serve more than a total of three children.
4. The licensee shall notify the Division of a pre-placement conference with another agency or jurisdiction.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1014. Rights of Children in Child Developmental Foster Homes

The licensee shall uphold and safeguard the rights of clients consistent with applicable federal and state laws, specifically including A.R.S. § 36-551.01, unless legally restricted or as addressed in the ISPP in accordance with Article 9. Rights for children shall allow for reasonable standards of parental guidance and protection. In addition to those rights specifically stated in statute, rights shall include, at a minimum:

1. The right to be provided choices and to express preferences which will be respected and accepted whenever appropriate and possible;
2. The right to be free from personal and financial exploitation;
3. The right to a safe, clean, and humane physical environment;
4. The right to own and have appropriate access to personal property;
5. The right to associate with persons of the child's own choosing as appropriate to the age and developmental level of the child;
6. The right to participate in social, religious, educational, cultural, and community activities;
7. The right to have access to their personal spending money and to be taught to manage their spending money;
8. The right to the least amount of physical assistance necessary to accomplish a task;
9. The right to privacy, including during treatment and care of personal needs, and with regard to written correspondence, telephone communications, and visitations;
10. The right to have care for personal needs provided, except in cases of emergency, by a caregiver of the gender appropriate to the age of the child or as specified in the ISPP; and
11. The right to be treated with dignity and respect.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for

review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1015. Exemption

A licensee may request from the Division an exemption of a rule contained in this Article. The request shall demonstrate that the intent of the rule will be met by alternate means and that the exemption will not endanger the lives or health of clients.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1016. Home Inspections and Monitoring

- A. The licensee shall cooperate with the Division in assessing compliance with this Article.
- B. The licensee shall allow the Division access to the setting for inspections and monitoring visits and shall allow the Division access to the licensee's records, reports, and vehicles used to transport clients.
- C. Inspections and monitoring visits shall include, at a minimum:
 1. An annual home visit as part of the license renewal process; and
 2. Two monitoring visits each year, at least one of which will be unannounced.
- D. The licensee shall comply with corrective action plans as required by the Division.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1017. Complaints

- A. Any person who has a complaint about a child developmental foster home may make the complaint known verbally or in writing to the Department.
- B. A complainant who has provided his name and address shall be notified that his complaint has been received and the notice shall indicate what investigative actions shall be taken.
- C. The Department shall investigate complaints about child developmental foster homes within ten calendar days of the receipt of the complaint and shall notify the licensee of the investigation. In a case where there is reason to believe that imminent danger exists, the investigation shall be conducted immediately and the licensee shall be notified.
- D. The name or identifying characteristics of the complainant shall not be disclosed unless the complainant consents in writ-

ing to the disclosure or investigation of the complaint results in a legal proceeding and disclosure is ordered by an appropriate authority.

- E. The Department shall notify the licensee of the results of an investigation conducted pursuant to this rule and the requirement for any corrective action that the Department deems necessary.
- F. The licensee shall cooperate with the Division in completing investigations of complaints or concerns regarding the Child Developmental Foster Home and regarding children placed in the home.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1018. Denial, Suspension, and Revocation of Child Developmental Foster Home Licenses

- A. The Division may deny, suspend, or revoke a license for violations of A.R.S. § 36-594.
- B. The Division may deny or revoke a license if a license applicant or licensee has been arrested for, convicted of, charged with, or pled no contest to any of the following criminal acts:
 1. Sexual abuse of a child or vulnerable adult,
 2. Incest,
 3. First- or second-degree murder,
 4. Kidnapping,
 5. Arson,
 6. Sexual assault,
 7. Sexual exploitation of a child or vulnerable adult,
 8. Commercial sexual exploitation of a child or vulnerable adult,
 9. Felony offenses within the previous ten years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs,
 10. Robbery,
 11. Child prostitution as defined in A.R.S. § 13-3206,
 12. Child abuse or abuse of a vulnerable adult,
 13. Sexual conduct with a child,
 14. Molestation of a child or vulnerable adult,
 15. Voluntary manslaughter, or
 16. Aggravated assault.
- C. Upon notification that a member of the household or person living on the premises of a Child Developmental Foster Home is found to have been arrested for, convicted of, charged with, or pled no contest to any of the criminal acts listed in subsection (B), the licensee shall immediately take the following actions:
 1. Remove the person from direct contact with children;
 2. Notify the Division, unless the licensee initially received notice from the Division.
- D. If a licensee fails to comply with subsection (C), the Division shall revoke or suspend the license.
- E. If the criminal record check indicates that an individual has been convicted of or found by a court to have committed, or is reasonably believed to have committed, offenses pursuant to

A.R.S. § 36-594, other than those listed in subsection (B), the Division shall consider the following factors when determining what corrective action to take against the licensee:

1. The extent of the individual's criminal record;
 2. Length of time since the commission of the offense;
 3. Nature of the offense;
 4. Mitigating circumstances surrounding commission of the offense. The burden is on the person to demonstrate that there were mitigating circumstances;
 5. The degree of the person's participation in the offense. The burden is on the person to demonstrate that the involvement was not direct; and
 6. The extent of the person's rehabilitation, including but not limited to:
 - a. The person shall provide that probation has been completed and complete restitution or compensation for the offense has been made, and
 - b. Evidence of positive action to change criminal behavior such as completion of a drug treatment program or counseling.
 7. Personal references attesting to the person's rehabilitation.
- F. When an application for a license is denied, or a license is suspended or revoked, pursuant to A.R.S. § 36-594, the Division shall deliver a written notice of the action in person or send a written notice of the action by certified mail to the license applicant or licensee. The notice shall state the reasons for the denial, suspension, or revocation with reference to applicable statutes and rules.
 - G. If the reason for denial, suspension, or revocation of a license involves the health, welfare, or safety of clients, the clients shall be immediately removed from the child developmental foster home.
 - H. When a license is denied, suspended, or revoked, the license applicant or licensee has the right to appeal the decision pursuant to Article 20.
 - I. The Division may suspend a child developmental foster home license for:
 1. Up to six months during an investigation or while the licensee completes a corrective action plan.
 2. Up to 12 months due to the temporary inability of the licensee to provide services.
 - J. No child can be placed in the foster home during a suspended license status.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1019. Appeals

- A. When an application for a license is denied, or a license is suspended or revoked, the Division shall notify the license applicant or licensee of the right of appeal pursuant to R6-6-2001 et seq. (Appeals and Hearings), except that appeals from the decision of a hearing officer shall be in accordance with A.R.S. § 41-1992 (Hearing Officers Powers and Duties).

- B. If the license applicant or licensee appeals a licensing decision, the denial, suspension, or revocation of the license shall not become final until the appeal decision is rendered.
- C. If the children have been removed from the child developmental foster home because of a health, welfare, or safety issue, they shall remain out of the home while the appeal is pending.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

ARTICLE 11. ADULT DEVELOPMENTAL HOME LICENSE

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1101. Application for License

- A. Married or single persons desiring to be licensed as an adult developmental home shall make written application for a license to the Division on the prescribed forms.
- B. The license applicant and any adult member of the household shall be fingerprinted for a criminal history record check as prescribed by the Division. Any adult living on the premises, not residing in the home, may be required to be fingerprinted for a criminal history record check.
- C. The license applicant and any adult member of the household shall authorize the Division to perform a background check through Adult Protective Services and Child Protective Services referral files. Any adult living on the premises may be required to authorize a background check through Adult Protective Services and Child Protective Services referral files.
- D. The license applicant and all members of the license applicant's household shall participate in interviews with the Division and the home-study process as required by the Division. The home-study process shall include:
 - 1. Interviews with all members of the license applicant's household.
 - 2. Interviews with other knowledgeable parties as the Division determines appropriate.
 - 3. Inspection of the home and grounds by the Arizona Department of Health Services and the Division for compliance with this Article.
- E. To be eligible for licensure as an adult developmental home provider, the license applicant shall:
 - 1. Be at least 21 years of age,
 - 2. Have income or resources independent of the Division room-and-board payments to meet the needs of the license applicant's family unit,
 - 3. Not have employment that conflicts with the care and supervision of adults placed by the Division,
 - 4. Be of reputable and honest character, and
 - 5. The license applicant shall submit documentation that each child living in the home has received the immunizations appropriate to the child's age and state of health unless the license applicant has submitted a signed statement that the children have not been immunized because of affiliation with a religion which is opposed to such immunizations or because the license applicant is opposed to such immunizations.
- F. The license applicant and members of the household shall cooperate with the Division in obtaining information regarding the license applicant or household members necessary to determine if the home meets licensing standards. Such cooperation shall include, but is not limited to:
 - 1. Providing releases of information;
 - 2. Authorizing release of medical records; and
 - 3. Submitting to psychological, psychiatric, drug testing, or other evaluations as required by the Division.
- G. The license applicant shall provide the Division with a minimum of three references who are familiar with the family and are not related to the license applicant by blood or marriage. The Division may contact the references for further information regarding the license applicant's character and ability to care for individuals with developmental disabilities.
- H. The Division may require the license applicant to submit references from current or previous employers.
- I. All members of the household shall agree with the decision to be licensed as an adult developmental home.
- J. The license applicant shall demonstrate an understanding of and the ability to meet the emotional, physical, social, developmental, educational, and intellectual needs of individuals with developmental disabilities.
- K. The license applicant shall demonstrate the ability to provide encouragement, guidance, and support; to be sensitive to the needs of the individuals with developmental disabilities; and to protect individuals with developmental disabilities from harm.
- L. The applicant shall not have any medical or emotional problems that may prevent the person from properly caring for adults with developmental disabilities or may negatively impact on clients in the home.
 - 1. Following approval of the home study by the Division, the license applicant shall submit, on forms prescribed by the Division, written statements from a licensed medical practitioner for each adult living in the home. The statement shall include, at a minimum:
 - a. Confirmation that the physician has examined the adult within the last six months,
 - b. A description of the person's general physical and emotional health,
 - c. A list of all regularly prescribed medications and the purpose of the medication, and
 - d. Identification of any medical or emotional problems that may prevent the person from caring for adults with developmental disabilities or may impact on clients in the home.
 - 2. The Division may require the license applicant to submit physician statements as described in this Section regarding the physical and emotional health of other adults living on the premises.
- M. The license applicant shall attend precicensure training as required by R6-6-1105.

Historical Note

Former Section R6-6-1101 repealed effective September 18, 1987. New Section R6-6-1101 adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for

review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1102. Issuing an Initial License

- A. The license applicant shall comply with the requirements of this Article.
- B. Except as provided in R6-6-1104(C), a regular license is effective for one year from the date of issuance.
- C. Based upon records, reports, and observations, if the Division determines that the license applicant may be unable to meet the physical or emotional needs of clients, the Division may require further psychological or physical evaluations, at no expense to the license applicant, to determine whether a license shall be denied.
- D. A regular license to provide adult developmental home services is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Former Section R6-6-1102 repealed effective September 18, 1987. New Section R6-6-1102 adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1103. Issuing a Renewal License

- A. A regular license is renewable annually for a one-year period.
- B. The Division shall renew an adult developmental home regular license when:
 1. The licensee has met the annual training requirements according to R6-6-1105;
 2. The home meets the requirements of R6-6-1101 except as noted in this paragraph:
 - a. The licensee shall submit a written statement every three years from the date of initial license from a licensed medical practitioner as required by R6-6-1101(M);
 - b. References are not required for license renewal;
 - c. The adult developmental home shall receive a health inspection from the Department of Health Services every three years prior to license renewal unless otherwise indicated by this Article;
 3. Any person fingerprinted pursuant to R6-6-1101(B) and still residing in the home or on the premises shall have a criminal history record check every three years.
- C. Based upon records, reports, and observations, if the Division determines that the license applicant for license renewal may be unable to meet the physical or emotional needs of adults with developmental disabilities, the Division shall have the authority to require further psychological or physical evaluations at no expense to the developmental home provider to determine whether to renew a license.
- D. A license to provide adult developmental home services is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Former Section R6-6-1103 repealed effective September 18, 1987. New Section R6-6-1103 adopted effective

August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1104. Issuing a Provisional License

- A. The Division may issue a provisional license for up to six months when:
 1. The license applicant is temporarily unable to meet the requirements of this Article, and
 2. The Division is satisfied that the listed deficiencies can be corrected within six months or less by the license applicant.
- B. When conditions exist which could endanger the health or safety of adults with developmental disabilities, the Division shall not issue a provisional license pursuant to A.R.S. § 36-592.
- C. When the license applicant has met the requirements of the provisional license and a regular license is issued, the regular license is valid for one year from the date the Division issued the provisional license.
- D. A provisional license to provide adult developmental home services is not transferable and is valid only for the licensee and the address stated on the license.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

R6-6-1104.01. Time-Frame for Granting or Denying a License

For the purpose of A.R.S. § 41-1073, the Division establishes the following licensing time-frames:

1. Administrative completeness review time frame:
 - a. For an initial license, 90 days;
 - b. For a renewal license, 30 days; and
 - c. For an amended license, 30 days.
2. Substantive review time-frame:
 - a. For an initial license, 30 days;
 - b. For a renewal license, 31 days; and
 - c. For an amended license, 10 days.
3. Overall time-frame:
 - a. For an initial license, 120 days;
 - b. For a renewal license, 61 days; and
 - c. For an amended license, 40 days.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1104.02. Administrative Completeness and Substantive Review Process

- A. The Division shall send the license applicant a written notice within the administrative completeness review time-frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the Division shall list the missing information in the notice and ask the license applicant to supply the missing information within 60 days from the date of notice. If the license applicant fails to do so, the Division may close the file.

- C. A license applicant whose file has been closed and who later wishes to become licensed may reapply to the Division. The administrative completeness time-frame starts over when the Division receives the written request to reapply.
- D. When the application is complete, the Division shall complete a substantive review of the license applicant's qualifications. The Division shall:
 - 1. Review the application form and all required documents to ensure compliance with this Article,
 - 2. Complete a home study as prescribed in R6-6-1101(D), and
 - 3. Gather additional information needed to determine the license applicant's fitness to serve as an Adult Developmental Home service provider and ability to comply with Adult Developmental Home requirements, which may include:
 - a. Interviewing the license applicant;
 - b. Contacting references;
 - c. Verifying information provided in the application;
 - d. Visiting the license applicant's home; and
 - e. Requesting additional information, assessments, or tests as prescribed in R6-6-1101(F) and R6-6-1103(C).
- E. If a license is denied, the Division shall send a notice to the license applicant as prescribed in R6-6-1118(F) and A.R.S. § 41-1076.
- F. An applicant shall submit a license application package to DES/DDD, P.O. Box 6123, Site Code 791A, Phoenix, Arizona 85005-6123, Attention: Developmental Home Licensing Unit.
- d. Any current or prior licenses or certificates held by the license applicant to provide care to a child or adult, as follows:
 - i. Type of license or certificate;
 - ii. Date of each license and certificate;
 - iii. State in which each license or certificate was issued;
 - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended and the circumstances; and
 - v. Name of any other agency with which the license applicant is currently licensed or certified to provide services to children or adults.
- e. A description of the license applicant's home, as follows:
 - i. The name of the school district in which the license applicant's home is located;
 - ii. Identification and description of any swimming pool, spa, fish pond, or other body of water; and
 - iii. Number of bedrooms.
- f. Information about the license applicant, as follows:
 - i. Educational background;
 - ii. Employment history;
 - iii. Previous experience in providing room and board for any person;
 - iv. Any contact with CPS or APS and the circumstances;
 - v. Any arrest and the circumstances;
 - vi. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
 - vii. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
 - viii. The reason for wanting to provide care to an adult;
 - ix. Gender, age, characteristics, and special needs of the individual the license applicant would prefer to take into the home;
 - x. Any experience caring for individuals who have special needs;
 - xi. Discipline techniques used or believed appropriate; and
 - xii. Anticipated changes in the license applicant's family in the next 12 months.
- g. Information about the license applicant's household member, as follows:
 - i. Any contact with CPS or APS by anyone currently or formerly residing with the license applicant and the circumstances;
 - ii. Any arrests and the circumstances;
 - iii. Any history of mental illness or treatment for a mental illness or emotional disorder including hospitalization for alcohol, drug, or mental health issues and the circumstances;
 - iv. If currently or previously employed by the Department of Economic Security or the Division, position, title, name of the supervisor, and name of the program;
 - v. Any experience caring for individuals with special needs; and
 - vi. Discipline techniques used or believed appropriate.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1104.03. Contents of a Complete Application Package - Initial License

An initial application package is complete when the Division has all of the following information:

- 1. From the license applicant, a completed application form as prescribed in R6-6-1101(A) which contains the following information:
 - a. Personally identifying information, as follows:
 - i. Name and gender,
 - ii. Date and place of birth,
 - iii. Social security number,
 - iv. Ethnicity and religious preference,
 - v. Current and previous address,
 - vi. Dates resided at previous address,
 - vii. Length of Arizona residency,
 - viii. Current marital status and marital history, and
 - ix. Any other names by which the license applicant has been known.
 - b. Personally identifying information on the license applicant's household members, as follows:
 - i. Name,
 - ii. Gender,
 - iii. Date of birth,
 - iv. Relationship to license applicant, and
 - v. Length of time living in the home.
 - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
 - i. Name;
 - ii. Current address;
 - iii. Date of birth; and
 - iv. Occupation or school, if currently attending.

- h. Reference information for the license applicant, as follows:
 - i. Three references who can attest to the license applicant's character and skill; and
 - ii. If the license applicant is working or has worked with children or adults with developmental disabilities, 1 employment reference;
 - i. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home.
- 2. From the license applicant, the following documents listed on the application form:
 - a. A completed declaration of criminal history for the license applicant and each adult household member on a Division form with the following information:
 - i. Name,
 - ii. Social security number,
 - iii. Date of birth,
 - iv. Address,
 - v. A declaration of whether the individual has committed any of the crimes listed in A.R.S. § 36-594(3) and R6-6-1118, and
 - vi. Dated signature.
 - b. Documentation showing that the license applicant and each adult household member have been finger-printed;
 - c. Documentation showing that the license applicant has a current driver's license, and current vehicle liability insurance as prescribed in R6-6-1112(A);
 - d. A completed monthly budget on a Division form showing the license applicant's monthly income, and monthly expenses, and the circumstances for any declaration of bankruptcy;
 - e. A physician's statement for the license applicant and each adult household member as prescribed in R6-6-1101(L);
 - f. Documentation of current immunizations for each child living in the license applicant's home as prescribed in R6-6-1101(E)(5);
 - g. Documentation that the license applicant has completed training as prescribed in R6-6-1105(A).
- 3. From sources other than the applicant, the documents listed on the application form, as follows:
 - a. Three letters of reference for the license applicant as prescribed in R6-6-1101(G);
 - b. If the license applicant works with children or adults with developmental disabilities, 1 employment letter of reference as prescribed in R6-6-1101(H);
 - c. Documentation that the license applicant and each adult household member have had a criminal history check as prescribed in R6-6-1101(B);
 - d. Documentation showing that the license applicant's home has passed:
 - i. A fire inspection as prescribed in R6-6-1111(E), and
 - ii. A health and safety inspection as prescribed in R6-6-1111(D).
 - e. Documentation that vehicles used for transporting individuals with developmental disabilities have passed a Division safety inspection to meet the safety requirements in R6-6-1112(B); and
 - f. Documentation that the CPS/APS Central Registry has been checked as prescribed in R6-6-1101(C).

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1104.04. Contents of a Complete Application Package - Renewal License

A license renewal application package is complete when the Division has all the following information:

- 1. From the license applicant, a completed renewal application form as prescribed in R6-6-1101(A) which contains the following information:
 - a. Personally identifying information, as follows:
 - i. Name,
 - ii. Address, and
 - iii. Phone number.
 - b. Personally identifying information on the license applicant's household members, as follows:
 - i. Name,
 - ii. Gender,
 - iii. Age,
 - iv. Relationship to the license applicant, and
 - v. School or occupation.
 - c. Personally identifying information on the license applicant's children who do not live with the license applicant, including emancipated children, as follows:
 - i. Name;
 - ii. Age;
 - iii. Address; and
 - iv. Occupation or school, if currently attending.
 - d. Information about the license applicant, as follows:
 - i. Any arrest or investigation for a criminal offense, including charge, and arresting agency;
 - ii. Any referral to or treatment for a psychiatric or psychological problem, including substance abuse, in the last year.
 - e. Information about the license applicant's household member, including:
 - i. Any arrest or investigation for a criminal offense, including charge, and arresting agency;
 - ii. Any referral to or treatment for a psychiatric or psychological problem, including substance abuse, treatment in the last year.
 - f. Any current or prior license or certificate held by the license applicant to provide care to a child or adult, as follows:
 - i. Type of license or certificate;
 - ii. Date of each license and certificate;
 - iii. State in which the license or certificate was issued;
 - iv. Any license or certificate which was revoked, denied, voluntarily surrendered, or suspended and the circumstances; and
 - v. Name of any other agency with which the license applicant is currently licensed or certified to provide services to children or adults.
 - g. List of any individuals who live on the property on which the license applicant's home is located, but not in the license applicant's home;
 - h. List of the household members and their relationship to the applicant and to each other;
 - i. Any changes that should be made to the license conditions;
 - j. Dated signature.
- 2. From the license applicant, the items listed in R6-6-1104.03(2)(c),(2)(d), (2)(f), and the following:
 - a. A completed declaration of criminal history for each new adult household member and, at 3-year inter-

- vals, a completed declaration for all adult household members;
- b. Documentation showing that each new adult household member has been fingerprinted and, at 3-year intervals, that all adult household members have been fingerprinted;
 - c. A physician's statement every 3 years from the date of the initial license for the license applicant and all adult household members; and
 - d. Documentation that the license applicant has completed training as prescribed in R6-6-1105(B).
3. From sources other than the applicant, the documents listed in R6-6-1104.03(3)(d)(i), (3)(e), and (3)(f) and the following:
- a. Documentation that each new adult household member has had a criminal history check and that all adults household members have had a criminal history check every 3 years; and
 - b. Documentation that the license applicant's home has passed a health and safety inspection every 3 years since the date of the initial license.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1104.05. Contents of a Complete Request for an Amended License

A request for an amended license is complete when the Division has the following:

1. A description of the change requested to the license, and
2. Documentation that the requested change complies with this Article.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1105. Training Requirements for Adult Developmental Home Providers

- A. An applicant for an initial license as an adult developmental home provider shall meet the following training requirements:
 1. Prelicensing training in the following subjects:
 - a. Cardiopulmonary resuscitation appropriate for children and adults provided by an instructor certified in cardiopulmonary resuscitation;
 - b. First aid provided by an instructor certified in first aid; and
 - c. Orientation training of 12 to 20 hours, as prescribed by the Division.
 2. Up to ten additional hours of training based upon the needs of the license applicant or the adult placed by the Division, as determined by the Division.
- B. The licensee shall annually complete a minimum of ten hours of training, as required by the Division, prior to license renewal and must maintain cardiopulmonary resuscitation and first-aid certifications obtained for the initial license. Up to four hours of the annual training may be allowed for training related to maintenance of certificates.

- C. The licensee shall participate in additional training, as required by the Division, based upon the specific needs of the license applicant or licensee or an adult placed by the Division or shall demonstrate the ability to meet the needs of the specific client.
- D. The license applicant or licensee shall submit documentation to the Division demonstrating satisfactory completion of the training requirements.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1106. Adult Developmental Home Licensee Responsibility

- A. The licensee shall provide the client with positive emotional support and guidance including but not limited to:
 1. Including the client in daily activities;
 2. Providing the client with positive reinforcement;
 3. Assisting the client with day-to-day concerns with school, work, friends, and family;
 4. Providing appropriate care, concern, and support;
 5. Protecting the client from exploitation; and
 6. Assisting the client in developing and fostering personal relationships.
- B. The licensee shall follow written and verbal instructions and orders from qualified professionals regarding the medical, dental, habilitation, and therapeutic needs of the client.
- C. The licensee shall provide opportunities for social and physical development appropriate to the client's abilities and interest, through recreation and leisure-time activities.
- D. The licensee shall provide opportunities for the client to pursue the client's own religious beliefs. The licensee shall not require the client to attend or participate in the licensee's religious activities or practices.
- E. The licensee shall develop an agreement with the client for shared household tasks which do not present a health or safety hazard and do not interfere with the client's school, work, day programs, or recreational activities.
- F. The licensee and any client who smokes tobacco products shall develop mutually acceptable rules regarding the smoking of tobacco products.
- G. The licensee shall provide appropriate direction in the selection of clothing while allowing individual choice.
- H. In cooperation with the client, the licensee shall plan and provide well-balanced and adequate meals to meet the nutritional needs of the client.
- I. The licensee shall ensure transportation is arranged to meet the educational, employment, medical, habilitative, therapeutic, and social needs of the client.
- J. The licensee shall make reasonable efforts to support and maintain the client's relationships with parents, guardians, other family members, and other persons important to the client's life as indicated in the ISPP.
- K. The licensee shall ensure that money designated for or earned by the client is only used for the specific purpose intended and for the benefit of the client consistent with the Individual Spending Plan.

- L. The licensee shall ensure that the client is provided opportunities to make choices regarding the client's own spending money.
- M. The licensee shall not provide residential care or respite services to children in the adult developmental home.
- N. The licensee shall provide care only for the number of clients and conditions listed on the license.
- O. The licensee shall obtain approval from the Division before accepting placements from other agencies or private parties.
- P. When the licensee also provides respite services, the licensee shall ensure that the respite placement is within the conditions stated on the license.
- Q. The licensee shall not accept roomers or boarders without prior approval of the Division.
- R. The licensee shall treat information concerning a client placed in the licensee's home and the client's family or guardian as confidential in accordance with A.R.S. § 36-568.
- S. When the client is attending school, the licensee shall encourage and promote the educational development of the client by participating in the IEP meetings, unless otherwise specified by the Division, and by advocating for the implementation of the IEP.
- T. The licensee shall participate in the ISPP meetings, shall carry out the tasks identified by the ISPP team as being the responsibility of the licensee, and shall advocate for the implementation of the ISPP.
- U. The licensee shall cooperate with the Division when a client moves from the adult developmental home. The licensee shall:
 - 1. Provide information including records of the client's medical and dental history, educational experience, and progress on ISPP activities.
 - 2. Ensure personal belongings such as usable clothing, furniture, television sets, bicycles, the personal record, and other items purchased specifically for the client go with the client.
 - 3. Assist the Division in preparing the client for the move.
- V. The licensee shall assist the client in maintaining an inventory of the client's personal property such as furniture, bicycles, radios, television sets, and adaptive equipment.
- W. The licensee shall comply with the terms of the Adult Developmental Home Agreement.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1107. Behavior Management

- A. The licensee shall comply with the Division requirements for behavior management as specified in Article 9.
- B. The licensee shall establish, with the client, house rules for sharing the living environment which are appropriate to the life experience and individuality of each client.
 - 1. The licensee and the client shall develop and implement a fair and reasonable process for resolving disputes.
 - 2. The licensee shall contact the Division if a dispute cannot be resolved.

- 3. The licensee shall not deprive the client of meals, shelter, or medical care.
- 4. The licensee shall not allow any form of corporal or physical punishment.
- 5. The licensee shall not allow the use of verbal abuse or derogatory remarks.
- 6. The licensee shall identify and report to the Division behavioral issues which may impact the health, safety, or training needs of the client.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1108. Sleeping Arrangements

The licensee shall provide appropriate, comfortable, safe, and private sleeping arrangements for each client.

- 1. Clients shall have their own beds and places to store clothing in the bedroom and a place for storing personal belongings.
- 2. The client's bedrooms shall not be unfinished rooms, hallways, or rooms which are normally used for other than sleeping arrangements by family members.
- 3. A client shall not share a bedroom with another person unless each person agrees to the arrangement and each client has a separate bed and space for storing clothing in the bedroom and a place for storing personal belongings.
- 4. A client shall not share a bedroom with a person of the opposite sex unless otherwise specified in the ISPP.
- 5. An adult client and a child shall not share a bedroom.
- 6. The licensee shall sleep within hearing distance of the client if indicated by the needs of the client.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1109. Notification Requirements

- A. The licensee shall notify the Division of the following events:
 - 1. Prior to building an addition to the home or structural remodeling of the home, or adding a swimming pool or spa, and shall cooperate with the Division in obtaining an Arizona Department of Health Services inspection as prescribed in A.R.S. § 8-504 for any home additions.
 - 2. Changes in marital status or living arrangement of the licensee.
 - 3. A plan to make a change in residence.

4. Known arrests, indictments, or convictions of any household member or of persons living on the premises.
 5. Serious injury, major illness, illegal substance use or substance abuse, suicidal behavior, attempted suicide, or death of any household member. The Division may require the licensee to provide written documentation from a physician regarding the change in medical status.
 6. Changes which may impact on the ability of the licensee to meet the needs of the client.
 7. Notification shall be made to the Division prior to the addition of a household member.
 8. A temporary visitor staying more than one month.
 9. The licensee shall notify the Division prior to a change in primary caregiver or a person moving from the household who contributed to the care of the client.
- B.** For adults placed by the Division in the licensee's home, the licensee shall notify the Division of incidents including but not limited to:
1. Possible abuse or neglect as per A.R.S. § 13-3620 and R6-6-1601.
 2. Hospitalizations, the intervention of a medical practitioner, or emergency medical care as a result of serious illness, injury, medication errors, or suicidal behavior.
 3. Death of the client.
 4. A client missing. A client missing must be reported to law enforcement officials and the Division as soon as the client is determined to be missing.
 5. Theft of money or property.
 6. Incidents which have involved or may potentially involve the police or media.
 7. Significant damage to client property, licensee property, state property, or the property of others.
 8. Illegal substance use or substance abuse.
- C.** The licensee shall obtain Division prior approval for alternative supervision plans.
1. The licensee shall involve the client in the development of alternative supervision plans.
 2. The licensee shall ensure that alternative supervision is only provided by persons 18 years of age or older.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1110. Recordkeeping

- A.** The licensee shall maintain a record for each client of medical history, dental history, educational experiences, and progress on ISPP activities.
- B.** The licensee shall obtain and provide to the Division receipts for expenditures for the client as required by the Division.
- C.** The licensee shall assist the client in maintaining a personal record of momentos, photos, letters, cards, report cards, and special projects.
- D.** The licensee shall keep copies of all licenses, certificates, and correspondence in a separate file to document compliance with sanitation, health, and environmental codes of state and local authorities.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1111. Health and Safety Standards in an Adult Developmental Home

- A.** The licensee shall maintain the premises of the adult developmental home in a clean and sanitary condition to the degree that it does not present a health or safety hazard.
- B.** The adult developmental home shall not have an accumulation of litter, rubbish, or garbage on the premises. Litter, rubbish, and garbage shall be contained in cleanable containers with lids or sealed disposable containers and shall be removed from the property not less than once a week.
- C.** The licensee shall ensure that the adult developmental home is free from, or has an ongoing system to eradicate, insects, rodents, and other vermin.
- D.** Before initial licensure and every three years thereafter, the adult developmental home shall be inspected and meet the safety and sanitation guidelines of the Department of Health Services unless otherwise specified by the Division.
- E.** Adult developmental homes located in mobile homes shall pass an annual fire safety inspection as arranged by the Division.
- F.** The licensee shall keep toxic, poisonous, hazardous, and corrosive materials in locked storage unless otherwise specified in the ISPP of each client in the household.
- G.** The licensee shall keep medicines in separate locked storage unless otherwise specified in the ISPP of each client in the household.
- H.** The licensee shall keep firearms in locked storage and shall keep ammunition locked separately from the firearms.
- I.** Bedrooms shall have light, ventilation, and a usable and unobstructed exit to the outside in case of an emergency.
- J.** Telephone service or similar two-way communication methods shall be available in the home and shall be in working order.
- K.** Any permanent body of water shall be fenced and inaccessible to clients and shall meet the guidelines of the Department of Health Services unless otherwise specified by the Division.
- L.** The licensee shall not allow clients in swimming pool areas or in the area of other bodies of water unless supervised by a responsible adult or as specified in the ISPP.
- M.** The licensee shall store alcoholic beverages responsibly.
- N.** The licensee shall ensure that smoking of tobacco products does not occur while in an enclosed area with residents who do not smoke tobacco products.
- O.** The licensee shall make reasonable efforts to ensure family pets do not present a health or safety hazard to clients.
- P.** The licensee shall develop a fire evacuation plan and shall periodically practice the plan with the family members. The licensee shall update the fire evacuation plan as needed based on placement changes, household member changes, and structural changes to the adult developmental home.

- Q.** The licensee shall equip the adult developmental home with smoke detectors and fire extinguishers which are in good working order.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1112. Transportation

- A.** A licensee who transports clients shall have a current and valid driver's license and shall have liability insurance for any vehicle which will be used to transport clients. An Adult Developmental Home household member who transports clients must be 18 years of age or older and must be identified to the Division.
- B.** The licensee shall ensure that vehicles used for transporting clients are maintained in a safe operating condition.
- C.** The licensee shall ensure that clients wear seat belts or use an appropriate safety restraint while being transported.
- D.** A vehicle used to transport clients in wheelchairs shall also be equipped with floor-mounted seat belts and wheelchair lock-downs for each wheelchair being transported.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1113. Dual Licensure of Adult Developmental Homes

Adult Developmental Home providers licensed by another jurisdiction, such as a county or a state agency other than the Department, or licensed by a tribal authority but located off-reservation, shall be licensed by the Division before the Division places a client in the setting.

1. To be granted a license, the setting shall meet all requirements of this Article.
2. An Adult Developmental Home, licensed by another jurisdiction, seeking licensure by the Division shall sign a release of information to provide the Division access to the licensing files of the other jurisdiction.
3. An Adult Developmental Home licensed by another jurisdiction shall not be licensed by the Division to serve more than a total of three adults regardless of the placing agency.
4. The licensee shall not accept private placements or placements from other agencies or jurisdictions without prior approval of the Division.

5. The licensee shall notify the Division of any pre-placement conference with another agency or jurisdiction.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1114. Client Rights in Adult Developmental Homes

The licensee shall uphold and safeguard the rights of clients consistent with applicable federal and state laws, specifically including A.R.S. § 36-551.01, unless legally restricted or as addressed in the ISPP in accordance with Article 9. In addition to those rights specifically stated in statute, rights shall include, at a minimum:

1. The right to be provided choices and to express preferences which will be respected and accepted whenever appropriate and possible;
2. The right to be free from personal and financial exploitation;
3. The right to a safe, clean, and humane physical environment;
4. The right to own and have free access to personal property;
5. The right to associate with persons of the client's own choosing;
6. The right to participate in social, religious, educational, cultural, and community activities;
7. The right to manage personal financial affairs and to be taught to do so;
8. The right to the least amount of physical assistance necessary to accomplish a task;
9. The right to privacy, including during treatment and care of personal needs and with regard to written correspondence, telephone communications, and visitations;
10. The right to have care for personal needs provided, except in cases of emergency, by a caregiver of the gender chosen by the responsible person or as specified in the ISPP; and
11. The right to be treated with dignity and respect.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1115. Exemption

A license applicant or licensee may request from the Division an exemption of a rule contained in this Article. The request shall demonstrate that the intent of the rule will be met by alternate

means and that the exemption will not endanger the lives or health of clients.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1116. Home Inspections and Monitoring

- A. The licensee shall cooperate with the Division in assessing compliance with this Article.
- B. The licensee shall allow the Division access to the setting for home inspections and monitoring visits and shall allow the Division access to records, reports, and vehicles used to transport clients.
- C. Monitoring visits shall include, at a minimum:
 1. An annual license renewal home visit; and
 2. Two monitoring visits each year, at least one of which will be unannounced.
- D. The licensee shall comply with corrective action plans as required by the Division.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1117. Complaints

- A. Any person who has a complaint about an adult developmental home may make the complaint known verbally or in writing to the Department.
- B. A complainant who has provided his name and address shall be notified that the complaint has been received and the notice shall indicate what investigative actions shall be taken.
- C. The Department shall investigate complaints about adult developmental homes within ten calendar days of the receipt of the complaint and shall notify the licensee of the investigation. In a case where there is reason to believe that imminent danger exists, the investigation shall be conducted immediately and the licensee shall be notified.
- D. The name or identifying characteristics of the complainant shall not be disclosed unless the complainant consents in writing to the disclosure or investigation of the complaint results in a legal proceeding and disclosure is ordered by an appropriate authority.
- E. The Department shall notify the licensee of the results of an investigation conducted pursuant to this rule and the requirement for any corrective action that the Department deems necessary.

- F. The licensee shall cooperate with the Division in completing investigations into complaints or concerns regarding the licensee and regarding clients placed in the home.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

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R6-6-1118. Denial, Suspension, and Revocation of Adult Developmental Home Licenses

- A. The Division may deny, suspend, or revoke a license for violations of A.R.S. § 36-594.
- B. The Division may deny or revoke a license if a license applicant or licensee has been arrested for, convicted of, charged with, or pled no contest to any of the following criminal acts:
 1. Sexual abuse of a child or vulnerable adult,
 2. Incest,
 3. First- or second-degree murder,
 4. Kidnapping,
 5. Arson,
 6. Sexual assault,
 7. Sexual exploitation of a child or vulnerable adult,
 8. Commercial sexual exploitation of a child or vulnerable adult,
 9. Felony offenses within the previous ten years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs,
 10. Robbery,
 11. Child prostitution as defined in A.R.S. § 13-3206,
 12. Child abuse or abuse of a vulnerable adult,
 13. Sexual conduct with a child,
 14. Molestation of a child or vulnerable adult,
 15. Voluntary manslaughter, or
 16. Aggravated assault.
- C. Upon notification that a member of the household or person living on the premises of an Adult Developmental Home is found to have been arrested for, convicted of, charged with, or pled no contest to any of the criminal acts listed in subsection (B), the licensee shall immediately take the following actions:
 1. Remove the person from direct contact with children;
 2. Notify the Division, unless the licensee initially received notice from the Division.
- D. If a licensee fails to comply with subsection (C), the Division shall revoke or suspend the license.
- E. If the criminal record check indicates that an individual has been convicted of or found by a court to have committed, or is reasonably believed to have committed, offenses pursuant to A.R.S. § 36-594, other than those listed in subsection (B), the Division shall consider the following factors when determining what corrective action to take against the licensee:
 1. The extent of the individual's criminal record;
 2. Length of time since the commission of the offense;
 3. Nature of the offense;
 4. Mitigating circumstances surrounding commission of the offense. The burden is on the person to demonstrate that there were mitigating circumstances;

5. The degree of the person's participation in the offense. The burden is on the person to demonstrate that the involvement was not direct; and
 6. The extent of the person's rehabilitation, including but not limited to:
 - a. The person shall prove that probation has been completed and complete restitution or compensation for the offense has been made, and
 - b. Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.
 7. Personal references attesting to the person's rehabilitation.
- F.** When an application for a license is denied, or a license is suspended or revoked, pursuant to A.R.S. § 36-594, the Division shall deliver a written notice of the action in person or send a written notice of the action by certified mail to the license applicant or licensee. The notice shall state the reasons for the denial, suspension, or revocation with reference to applicable statutes and rules.
- G.** If the reason for denial, suspension, or revocation of a license involves the health, welfare, or safety of clients, the clients shall be immediately removed from the Adult Developmental Home.
- H.** When a license is denied, suspended, or revoked, the license applicant or licensee has the right to appeal the decision pursuant to Article 20.
- I.** The Division may suspend an Adult Developmental Home license for:
1. Up to six months during an investigation or while the licensee completes a corrective action plan.
 2. Up to 12 months due to the temporary inability of the licensee to provide services.
- J.** No child can be placed in the adult developmental home during a suspended-license status.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 214, § 7. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1119. Appeals

- A.** When an application for a license is denied, or a license is suspended or revoked, the Division shall notify the license applicant or licensee of the right of appeal pursuant to R6-6-2001 et seq. (Appeals and Hearings), except that appeals from the decision of a hearing officer shall be in accordance with A.R.S. § 41-1992 (Hearing Officers Powers and Duties).
- B.** If the license applicant or licensee appeals a licensing decision, the denial, suspension, or revocation of the license shall not become final until the appeal decision is rendered.
- C.** If the adults placed by the Division have been removed from the home because of a health, welfare, or safety issue, they shall remain out of the home while the appeal is pending.

Historical Note

Adopted effective August 30, 1994, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 94-3).

ARTICLE 12. COST OF CARE PORTION

Correction: See Historical Notes, R6-6-1201 through R6-6-1204, correction to Emergency Certification effective August 12, 1981 (Supp. 83-1).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1201. Cost of Care Portion for Services

- A.** This Article prescribes the requirements for clients and the parents of clients under the age of 18 who are required to contribute towards the cost of the services the client receives. The cost of care portion applies to:
 1. Non-ALTCS clients receiving the services listed in subsection (B);
 2. Both ALTCS and non-ALTCS clients receiving residential services from the Division.
- B.** The following services are included in calculating the cost of care for a client:
 1. Adaptive Aides,
 2. Assessment,
 3. Attendant Care,
 4. Audiology,
 5. Basic Education,
 6. Counseling - both group and individual,
 7. Consultation,
 8. Day Treatment - adult and child,
 9. Pre-school Tuition,
 10. Habilitation,
 11. Home Health Aide,
 12. Hospital In-patient Expenses,
 13. Home Nursing,
 14. Housekeeping,
 15. Intermediate Care Facility for the Mentally Retarded,
 16. Medication and Supplies,
 17. Medical Support Services,
 18. Nutrition,
 19. Occupational Therapy,
 20. Parent Aide Service,
 21. Personal Care,
 22. Physical Therapy,
 23. Physician Services,
 24. Parent Skills Training,
 25. Recreation and Socialization,
 26. Respite,
 27. Room and Board,
 28. Speech Therapy, and
 29. Transportation.
- C.** The Division determines the payment amount for the cost of care portion pursuant to this Article.
- D.** The Division determines the cost of care portion by the parent of a client under 18 or from income from a trust or an estate of a client from the Cost of Care Portion Table attached as Appendix A to this Article.

- E. The cost of care portion from a client receiving residential services is based on the client's income or benefits. If the client receives benefits, the cost of care portion is determined pursuant to R6-6-1204.

Historical Note

Adopted as an emergency effective October 31, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R6-6-1201 adopted effective July 9, 1979 (Supp. 79-4). Repealed as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-4). Former Section R6-6-1201 repealed, new Section R6-6-1201 adopted as an emergency effective November 16, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R6-6-1201 repealed, new Section R6-6-1201 adopted as an emergency effective November 16, 1981 now adopted and amended as a permanent rule effective February 17, 1982 (Supp. 82-1). Correction to emergency effective August 12, 1981, should read: Former Section R6-6-1201 repealed, new Section R6-6-1201 adopted as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Section repealed, new Section adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1202. Determination of the Cost of Care Portion for Services from a Minor Client's Parents

- A. The Cost of Care Portion table shows the percentage of the cost of services which the parents are responsible for paying as the cost of care portion for the client.
- B. If the parents of a client are not married to each other, the Division determines the cost of care portion for the custodial parent.
- C. If the parent is married to an individual who is not legally responsible for the client, the Division determines the parent's cost of care portion using ½ the community income, plus any sole and separate income of the parent.
- D. When a parent of a minor client receiving residential services pays either all or part of the client's rent, food, or utilities, the Division shall reduce the client's cost of care by the documented amount that the parent pays for these items.
- E. If a parent has more than 1 child receiving services from the Division, the parent's cost of care portion shall not exceed the maximum amount the parent would be required to pay for the child receiving the most expensive services.

Historical Note

Adopted as an emergency effective October 31, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R6-6-1202 adopted effective July 9, 1979 (Supp. 79-4). Repealed as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003,

valid for only 90 days (Supp. 81-4). Former Section R6-6-1202 repealed, new Section R6-6-1202 adopted as an emergency effective November 16, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R6-6-1202 repealed, new Section R6-6-1202 adopted as an emergency effective November 16, 1981 now adopted and amended as a permanent rule effective February 17, 1982 (Supp. 82-1). Correction to emergency effective August 12, 1981, should read: Former Section R6-6-1202 repealed, new Section R6-6-1202 adopted as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Section repealed, new Section adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1203. Determination of the Cost of Care Portion for Services from a Client's Estate or Trust

The Division determines the cost of care portion which is billed from the income received from a trust or estate of a client is determined by using the Cost of Care Portion Table attached as Appendix A to this Article. The table shows the percentage of the cost of care to be billed to the trust or estate of the client.

Historical Note

Adopted as an emergency effective October 31, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R6-6-1203 adopted effective July 9, 1979 (Supp. 79-4). Repealed as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-4). Former Section R6-6-1203 repealed, new Section R6-6-1203 adopted as an emergency effective November 16, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R6-6-1203 repealed, new Section R6-6-1203 adopted as an emergency effective November 16, 1981 now adopted and amended as a permanent rule effective February 17, 1982 (Supp. 82-1). Correction to emergency effective August 12, 1981, should read: Former Section R6-6-1203 repealed, new Section R6-6-1203 adopted as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Section repealed, new Section adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's

Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1204. Special Provisions for Cost of Care Portion from Clients Receiving Residential Services

- A. If a client receiving residential services from the Division has income from an estate or trust, the Division uses the Cost of Care Portion Table to determine the cost of care portion.
- B. If a client receiving residential services from the Division has both income from a trust or estate and benefits, the Division uses only the benefit.
- C. The client shall keep either 30% or \$50 of the client's monthly benefits, whichever is greater, until the client's personal savings reach the maximum amount allowed by the federal agency providing the benefits, before federal benefits are cut off.
- D. When a client reaches the maximum allowable limit of personal savings as described in subsection (C) the client's monthly cost of care portion is the actual cost of residential services until the client's personal savings drop below the maximum allowable limit.
- E. If a client receives a retroactive benefit payment, the client shall retain the greater of either 30% of the total amount of the retroactive payments or the maximum amount allowed by the benefit source before federal benefits are cut off. The client shall pay the rest of the retroactive benefit payments, up to the actual cost of the client's residential services, to the Division to cover the months of placement in residential services for which the benefits are being paid.
- F. If a client receiving residential services uses the client's own income to pay either all or part of the rent, food, or utilities, the Division shall reduce the cost of care for the client by the documented amount the client pays for these items.

Historical Note

Adopted as an emergency effective October 31, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R6-6-1204 adopted effective July 9, 1979 (Supp. 79-4). Repealed as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-4). Former Section R6-6-1204 repealed, new Section R6-6-12-04 adopted as an emergency effective November 16, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R6-6-1204 repealed, new Section R6-6-1204 adopted as an emergency effective November 16, 1981 now adopted and amended as a permanent rule effective February 17, 1982 (Supp. 82-1). Correction to emergency effective August 12, 1981, should read: Former Section R6-6-1204 repealed, new Section R6-6-1204 adopted as an emergency effective August 12, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R6-6-1204 renumbered to R6-6-1206, new Section R6-6-1204 adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Former Section R6-6-1204 repealed, new Section renumbered from R6-6-1205 and amended under an exemption from A.R.S. Title 41, Chapter 6 effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6,

pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1205. Billing for the Cost of Cost Portion

- A. At least 30 days before the effective date of the rules and 30 days prior to May 1 of each year, the Division shall send a financial information form to each responsible person.
- B. The responsible person shall send the financial information requested by the Division to the Department's Office of Accounts Receivable and Collections in Phoenix within 30 days of the date of the request.
- C. The responsible person shall provide the following information on the financial information form:
 1. Client name;
 2. Parent or responsible person name;
 3. Parent or responsible person address;
 4. Declaration of taxable income from last year's federal tax form or Arizona state tax form, whichever is less, and estate or trust income tax; and
 5. Date and signature of the individual filling out the form.
- D. If the financial information is not returned, the Division will charge 100% of the cost of care. If a change occurs in financial circumstances or family size during any year, the responsible person shall contact the Division to amend the financial statement.
- E. The Department of Economic Security, Office of Accounts Receivable and Collections, shall determine the cost of care portion based on the cost of care and the financial information submitted by the responsible person.
- F. The Division shall determine the actual cost of care for services listed in R6-6-1201(B). Along with the monthly billing, the Division shall provide the responsible person with the information used to determine the cost of care for the client.
- G. If the Division does not receive the required cost of care portion for 2 consecutive months, the Office of Accounts Receivable and Collections shall send a delinquent notice to the responsible person. If the responsible person fails to make the overdue payment within 30 days after the date of the delinquent notice, the Division may take further action to collect, including requesting a change in the representative payee for benefits or referring the case to the Office of the Attorney General.

Historical Note

Adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Former Section R6-6-1205 repealed, new Section renumbered from R6-6-1206 and amended under an exemption from A.R.S. Title 41, Chapter 6 effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1206. Review and Appeal

- A. If a responsible person wants a review of the decision for the cost of care portion, the responsible person shall request the review, either orally or in writing, within 10 calendar days of receipt of a billing, to the Assistant Director, Division of Developmental Disabilities.
- B. A responsible person who contests the cost of care portion assessed according to this Article may request a fiscal administrative review pursuant to R6-6-1801 et seq. The responsible person may file a formal appeal as described in R6-6-2001 et seq. after exhausting the fiscal administrative review.

Historical Note

Section R6-6-1206 renumbered from R6-6-1204 and amended effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).
Former Section R6-6-1206 renumbered to R6-5-1205, new Section adopted effective December 1, 1996; filed in the Office of the Secretary of State November 22, 1996 (Supp. 96-4).

Department of Economic Security - Developmental Disabilities

Editor's Note: The following Appendix was repealed and a new Appendix adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

Appendix A. Cost of Care Portion Table

DIVISION OF DEVELOPMENTAL DISABILITIES
COST OF CARE PORTION TABLE
FY 1996 - 1997

Income based on 200% of Federal poverty guidelines issued March 4, 1996

PERCENT TO PAY OF SERVICES RECEIVED	FAMILY SIZE									
	1	2	3	4	5	6	7	8	9	10
	MONTHLY FAMILY INCOME									
0.0%	0 to \$1,290	0 to \$1,726	0 to \$2,164	0 to \$2,600	0 to \$3,036	0 to \$3,474	0 to \$3,910	0 to \$4,346	0 to \$4,784	0 to \$5,220
10.0%	\$1,291 to \$1,419	\$1,727 to \$1,899	\$2,165 to \$2,380	\$2,601 to \$2,860	\$3,037 to \$3,340	\$3,475 to \$3,821	\$3,911 to \$4,301	\$4,347 to \$4,781	\$4,785 to \$5,262	\$5,221 to \$5,742
13.0%	\$1,420 to \$1,548	\$1,900 to \$2,071	\$2,381 to \$2,597	\$2,861 to \$3,120	\$3,341 to \$3,643	\$3,822 to \$4,169	\$4,302 to \$4,692	\$4,782 to \$5,215	\$5,263 to \$5,741	\$5,743 to \$6,264
16.0%	\$1,549 to \$1,677	\$2,072 to \$2,244	\$2,598 to \$2,813	\$3,121 to \$3,380	\$3,644 to \$3,947	\$4,170 to \$4,516	\$4,693 to \$5,083	\$5,216 to \$5,650	\$5,742 to \$6,219	\$6,265 to \$6,786
19.0%	\$1,678 to \$1,806	\$2,245 to \$2,416	\$2,814 to \$3,030	\$3,381 to \$3,640	\$3,948 to \$4,250	\$4,517 to \$4,864	\$5,084 to \$5,474	\$5,651 to \$6,084	\$6,220 to \$6,698	\$6,787 to \$7,308
22.0%	\$1,807 to \$1,935	\$2,417 to \$2,589	\$3,031 to \$3,246	\$3,641 to \$3,900	\$4,251 to \$4,554	\$4,865 to \$5,211	\$5,475 to \$5,865	\$6,085 to \$6,519	\$6,699 to \$7,176	\$7,309 to \$7,830
25.0%	\$1,936 to \$2,064	\$2,590 to \$2,762	\$3,247 to \$3,462	\$3,901 to \$4,160	\$4,555 to \$4,858	\$5,212 to \$5,558	\$5,866 to \$6,256	\$6,520 to \$6,954	\$7,177 to \$7,654	\$7,831 to \$8,352
28.0%	\$2,065 to \$2,193	\$2,763 to \$2,934	\$3,463 to \$3,679	\$4,161 to \$4,420	\$4,859 to \$5,161	\$5,559 to \$5,906	\$6,257 to \$6,647	\$6,955 to \$7,388	\$7,655 to \$8,133	\$8,353 to \$8,874
31.0%	\$2,194 to \$2,322	\$2,935 to \$3,107	\$3,680 to \$3,895	\$4,421 to \$4,680	\$5,162 to \$5,465	\$5,907 to \$6,253	\$6,648 to \$7,038	\$7,389 to \$7,823	\$8,134 to \$8,611	\$8,875 to \$9,396
34.0%	\$2,323 to \$2,451	\$3,108 to \$3,279	\$3,896 to \$4,112	\$4,681 to \$4,940	\$5,466 to \$5,768	\$6,254 to \$6,601	\$7,039 to \$7,429	\$7,824 to \$8,257	\$8,612 to \$9,090	\$9,397 to \$9,918
37.0%	\$2,452 to \$2,580	\$3,280 to \$3,452	\$4,113 to \$4,328	\$4,941 to \$5,200	\$5,769 to \$6,072	\$6,602 to \$6,948	\$7,430 to \$7,820	\$8,258 to \$8,692	\$9,091 to \$9,568	\$9,919 to \$10,440
40.0%	\$2,581 to \$2,709	\$3,453 to \$3,625	\$4,329 to \$4,544	\$5,201 to \$5,460	\$6,073 to \$6,376	\$6,949 to \$7,295	\$7,821 to \$8,211	\$8,693 to \$9,127	\$9,569 to \$10,046	\$10,441 to \$10,962
43.0%	\$2,710 to \$2,838	\$3,626 to \$3,797	\$4,545 to \$4,761	\$5,461 to \$5,720	\$6,377 to \$6,679	\$7,296 to \$7,643	\$8,212 to \$8,602	\$9,128 to \$9,561	\$10,047 to \$10,525	\$10,963 to \$11,484
46.0%	\$2,839 to \$2,967	\$3,798 to \$3,970	\$4,762 to \$4,977	\$5,721 to \$5,980	\$6,680 to \$6,983	\$7,644 to \$7,990	\$8,603 to \$8,993	\$9,562 to \$9,996	\$10,526 to \$11,003	\$11,485 to \$12,006
49.0%	\$2,968 to \$3,096	\$3,971 to \$4,142	\$4,978 to \$5,194	\$5,981 to \$6,240	\$6,984 to \$7,286	\$7,991 to \$8,338	\$8,994 to \$9,384	\$9,997 to \$10,430	\$11,004 to \$11,482	\$12,007 to \$12,528
52.0%	\$3,097 to \$3,225	\$4,143 to \$4,315	\$5,195 to \$5,410	\$6,241 to \$6,500	\$7,287 to \$7,590	\$8,339 to \$8,685	\$9,385 to \$9,775	\$10,431 to \$10,865	\$11,483 to \$11,960	\$12,529 to \$13,050
55.0%	\$3,226 to \$3,354	\$4,316 to \$4,488	\$5,411 to \$5,626	\$6,501 to \$6,760	\$7,591 to \$7,894	\$8,686 to \$9,032	\$9,776 to \$10,166	\$10,866 to \$11,300	\$11,961 to \$12,438	\$13,051 to \$13,572
58.0%	\$3,355 to \$3,483	\$4,489 to \$4,660	\$5,627 to \$5,843	\$6,761 to \$7,020	\$7,895 to \$8,197	\$9,033 to \$9,380	\$10,167 to \$10,557	\$11,301 to \$11,734	\$12,439 to \$12,917	\$13,573 to \$14,094

To determine amount to pay:

- Find family size, include any children out of the home that are receiving Division services.
- Find Monthly Family Income (round to the nearest whole dollar).
- Move down the correct family size column to the cell that contains the range corresponding to the monthly family income.
- From that cell, move to the far left to the percent pay column.
- The percent is the percent you are required to pay monthly for the services your family/child received.
- For income higher than listed on the schedule: for every 4% increase in income, add 3% to the percent to pay for services.
- The payment amount is not to exceed the cost of services provided nor more than 10% of the monthly family income.**

Historical Note

Adopted effective February 17, 1982 (Supp. 82-1). Former Appendix A repealed, new Appendix A adopted effective September 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3). Former Appendix A repealed, new Appendix A adopted effective December 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State, November 22, 1996 (96-4).

ARTICLE 13. COORDINATION OF BENEFITS; THIRD-PARTY PAYMENTS

Editor's Note: The following Section was adopted, repealed, and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1301. Information Required at Initial Application and Redetermination

During the initial application process and at each redetermination for eligibility, the applicant shall provide the Division with information on all health insurance which covers, or is available to cover, the person to receive services including, but not limited to, the name of the policyholder, the policyholder's relationship to the person to receive services, social security number of the policyholder, the name, phone number, and address of the insurer, the policy number, and extent of insurance coverage.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Section repealed, new Section R6-6-1301 renumbered from R6-6-1302 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1302. Assignment of Rights to Benefits

- A. As a condition of eligibility, each applicant shall assign to the Division rights to health insurance payments applicable to the person to receive services and agree to cooperate with the Division in obtaining medical support and insurance payments pursuant to A.R.S. § 36-596.
- B. If the responsible person refuses to assign health insurance benefits to the Division, the Division shall deny or terminate eligibility for the client.
- C. If the policy holder is someone other than the responsible person and refuses to cooperate with the requirements of this Article, the Division may deny or terminate eligibility for the client.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-1302 renumbered to Section R6-6-1301, new Section R6-6-1302 renumbered from R6-6-1303 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the

Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1303. Collections of Health Insurance

- A. Service providers shall identify and pursue collections of reimbursement from all probable sources of third-party liability.
- B. Service providers shall identify and notify the Division of any and all changes in health insurance information for clients.
- C. The Division is the payor of last resort for DD/non-ALTCS Division-covered services, unless specifically prohibited by law. Service providers shall submit all claims covered by health insurance to the insurer prior to submitting a claim for payment to the Division.
- D. When submitting a claim for payment to the Division, service providers shall include a copy of the explanation of benefits from the health insurer. The Division shall not pay for covered services if the client has insurance coverage which will pay for the service.
- E. If a responsible person receives an insurance or benefit payment for a service provided through the Division, the amount received as payment is immediately due and payable to the Division. If the amount is not paid, the Division shall terminate eligibility.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-1303 renumbered to Section R6-6-1302, new Section R6-6-1303 renumbered from R6-6-1304 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1304. Monitoring and Compliance

The Division shall monitor third-party payments made to service providers. The Division shall determine whether a service provider is in compliance with the requirements set forth in this Article by inspecting documents to assess:

1. Verifiability and reliability;
2. Appropriateness of recovery attempt;
3. Timeliness of billing;
4. Accounting for reimbursements;
5. Auditing of receipts;
6. Provision of claim and explanation of benefits to the Division;
7. Auditing of receipts;
8. Other monitoring which the Division deems reasonably necessary to ensure compliance.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-1304 renumbered to Section R6-6-1303, new Section R6-6-1304 renumbered from R6-6-1305 and

amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1305. Notification of Liens

- A. When a service provider renders service to a client, the service provider shall notify the Division with the information listed in R6-6-1305(B) not later than five days after rendering such service for an injury or condition for which a third party may be liable.
- B. The service provider shall send the Division the following information:
 1. Name of service provider;
 2. Address of service provider;
 3. Name of client;
 4. Client's social security or Division identification number;
 5. Address of the responsible person;
 6. Date of client's injury or accident;
 7. Amount due for care of client;
 8. Name of the county in which injuries were sustained; and
 9. Names and addresses of all persons, firms or corporations and their insurance carriers which the responsible person asserts may be liable for damages.

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-1305 renumbered to Section R6-6-1304, new Section R6-6-1305 renumbered from R6-6-1306 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was adopted and renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1306. Renumbered

Historical Note

Adopted effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). Former Section R6-6-1306 renumbered to Section R6-6-1305 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 14. GUARDIANSHIP AND CONSERVATORSHIP

R6-6-1401. Guardianship

- A. The Department shall evaluate the need for, and extent of, guardianship and conservatorship for each recipient at least annually.
- B. If the appointment of a guardian or conservator is required for a Native American Indian recipient who is a member of an

Indian Tribe and who has significant contacts with that tribe but who is not an Indian child within the scope of 25 U.S.C.1901 et seq., the appointment of a guardian or conservator shall first be requested through the appropriate tribal court, if any, unless the request through the tribal courts is not in the recipient's best interests.

Historical Note

Adopted effective January 13, 1981 (Supp. 81-1).

ARTICLE 15. STANDARDS FOR CERTIFICATION OF HOME AND COMMUNITY-BASED SERVICE (HCBS) PROVIDERS

Editor's Note: Article 15, consisting of Sections R6-6-1501 and R6-6-1502, was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. A new Article 15 was subsequently adopted under the regular rulemaking process.

R6-6-1501. Definitions

The following definitions apply in this Article:

1. "AHCCCS provider type" means the descriptive category of service types assigned to a provider by AHCCCS during the registration process for individuals or agencies providing services to ALTCS clients.
2. "Applicant" means an agency or individual that has applied to the Division to become certified or to renew a certificate as an HCBS service provider.
3. "Certified instructor" means an individual who has a current certificate to provide instruction for CPR, First Aid, or client intervention techniques.
4. "Client intervention techniques" means methods which provide an individual with defensive skills for dealing with aggressive behaviors and is designed to reduce the chance of physical injury and property destruction and to prevent reinforcement of those aggressive behaviors.
5. "Compliance audit" means an examination of service provider records and interviews which the Division conducts to assess compliance with HCBS certification.
6. "Corrective action plan" means a specific activity prescribed by the Division which directs the service provider to remedy violations of HCBS certification requirements within a specific period of time.
7. "Direct services" means services provided specifically for the benefit of an individual client.
8. "Direct care" means those services provided to a client which result in attention to personal needs and supervision of the client.
9. "HCBS" or "Home and Community-based Services" means 1 or more of the following services provided to clients:
 - a. Attendant Care,
 - b. Day Treatment and Training for Children or Adults,
 - c. Habilitation,
 - d. Home Health Aide,
 - e. Home Health Nurse,
 - f. Hospice Care,
 - g. Housekeeping-Chore/Homemaker,
 - h. Non-Emergency Transportation,
 - i. Occupational Therapy,
 - j. Personal Care,
 - k. Physical Therapy,
 - l. Respiratory Therapy,
 - m. Respite services,
 - n. Speech/Hearing Therapy,
 - o. Supported Employment,

- p. Other comparable services as approved by the AHC-CCS Director.
- 10. "HCBS certificate" means the document the Division issues to a service provider or applicant as evidence the service provider has met the Home and Community-based Service standards in this Article.
- 11. "HCBS certification" means the process by which the Division ensures that an applicant or service provider meets the standards in this Article for Home and Community-based Services.
- 12. "Housekeeping" means providing assistance in the performance of activities related to routine household maintenance at a client's residence but does not include any direct care for the client.
- 13. "Immediate relative" means natural parent, stepparent, adoptive parent, natural child, natural sibling, adoptive child, adoptive sibling, stepchild, stepbrother, stepsister, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.
- 14. "Medicare certified" means having received Medicare certification through the Arizona Department of Health Services.

Historical Note

Adopted effective May 12, 1982 (Supp. 82-3). Section R6-6-1501 repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). New Section adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1502. Applicability

This Article applies to an individual or agency that provides or wishes to provide Home and Community-based Services to clients.

Historical Note

Adopted effective May 12, 1982 (Supp. 82-3). Section R6-6-1501 repealed effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2). New Section adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1503. Requirement for an HCBS Certificate

- A. No individual shall provide Home and Community-based Services to clients unless the Division has certified the individual in accordance with this Article and, if providing services through ALTCS, registered the applicant with AHCCCS.
- B. The Division shall register the applicant with AHCCCS, if required, as part of HCBS certification.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1504. Application for an Initial HCBS Certificate

- A. To become certified to provide a Home and Community-based Service to a client, an applicant shall file an application for an HCBS certificate with the Division and meet the requirements of this Article.
- B. The applicant shall complete application for an initial HCBS certificate on a form prescribed by the Division. The form shall contain the following information:
 - 1. Name,
 - 2. Home and business address,
 - 3. Specific services for which application is made,
 - 4. Phone number,
 - 5. Social security number or tax identification number,

- 6. Self declaration regarding criminal history of offenses listed in R6-6-1514(B),
- 7. Description of work experience, and
- 8. Description of educational background.

- C. The applicant shall provide a copy of any other license or certificate required by this Article to provide a specific service.
- D. Except as provided by R6-6-1521, the applicant shall provide forms for 3 letters of reference to individuals who are not the applicant's family members and who have personal knowledge about the applicant's employment history, education, or character. The letters will be on forms provided by the Division. The individual giving the reference shall send the completed reference form to the Division.
- E. The Division shall be in receipt of a completed application and 3 letters of reference before considering certification of the applicant.
- F. The applicant shall provide the Division with written documentation signed by the person performing the inspection of the completion of the requirements of R6-6-1505.
- G. Within 60 days of receipt of an application, the Division shall notify the applicant of any missing documents or information. The Division shall allow 30 days from the date of notification to the applicant for submission of the remaining documents or information and, if not received at that time, may close the record.
- H. The Division shall conduct background checks with Child Protective Services and Adult Protective Services on applicants when information in the application indicates a past history of child or elder abuse. The Division shall utilize the background check information when determining whether to certify an applicant.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1504.01. Time-Frame for Granting or Denying an HCBS certificate

For the purpose of A.R.S. § 41-1073, the Division establishes the following HCBS certificate time-frames:

- 1. Administrative completeness review time-frame:
 - a. For an initial certificate, 60 days;
 - b. For a renewal certificate, 25 days; and
 - c. For an amended certificate, 25 days.
- 2. Substantive review time-frame:
 - a. For an initial certificate, 60 days;
 - b. For a renewal certificate, 5 days; and
 - c. For an amended certificate, 5 days.
- 3. Overall time-frame:
 - a. For an initial certificate, 120 days;
 - b. For a renewal certificate, 30 days; and
 - c. For an amended certificate, 30 days.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1504.02. Administrative Completeness and Substantive Review Process

- A. The Division shall send the applicant a written notice within the administrative completeness review time-frame indicating that the application package is either complete or incomplete.
- B. If the application package is incomplete, the Division shall list the missing information in the notice and ask the applicant to supply the missing information within 30 days from the date of notice. If the applicant fails to do so, the Division may close the file.
- C. An applicant whose file has been closed and who later wishes to become certified may reapply to the Division. The adminis-

trative completeness time-frame starts over when the Division receives the written request to reapply.

- D. When the application is complete, the Division shall complete a substantive review of the applicant's qualification. The Division shall:
 - 1. Review the application form and all required documents to ensure compliance with this Article,
 - 2. Conduct CPS/APS background checks, and
 - 3. Verify previous licensure or certification.
- E. If an HCBS certificate is denied, the Division shall send a notice to the applicant and include the following information:
 - 1. The reason for the denial with citation to supporting statutes or rules,
 - 2. The applicant's right to appeal the denial, and
 - 3. The time periods for appealing the denial.
- F. An applicant shall submit an HCBS certificate application package to DES/DDD, P.O. Box 6123, Site Code 791A, Phoenix, Arizona 85005-6123, Attention: HCBS Certification Unit.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1504.03. Contents of a Complete Application Package - Initial Certificate

An initial application package is complete when the Division has all of the following information:

- 1. From the applicant, a completed application form as prescribed in R6-6-1504 (B); and
- 2. From the applicant, the following documents listed on the application form:
 - a. A completed AHCCCS provider participation agreement form as prescribed in R6-6-1503 which contains the following information:
 - i. The applicant's name, social security number or tax identification number, and business address;
 - ii. Terms of the agreement between the provider and AHCCCS; and
 - iii. Signature of the applicant.
 - b. A completed declaration of criminal history as prescribed in R6-6-1504(B)(6) on a Division form which contains the following information:
 - i. Name of the applicant,
 - ii. Social security number,
 - iii. Date of birth,
 - iv. Applicant address,
 - v. A declaration of whether or not the applicant has committed any of the crimes listed in R6-6-1514, and
 - vi. Dated signature.
 - c. Documentation showing that fingerprints have been taken as prescribed in R6-6-1506;
 - d. Documentation showing current CPR training as prescribed in R6-6-1520;
 - e. Documentation showing current First Aid training as prescribed in R6-6-1520;
 - f. Documentation showing Article 9 review as prescribed in R6-6-1520;
 - g. Documentation showing that the applicant has a current driver's license, vehicle registration, and liability insurance as prescribed in R6-6-1520(D);
 - h. Copies of any applicable professional license or certification as prescribed in R6-6-1504(C); and
 - i. AHCCCS provider registration form as prescribed in R6-6-1503 which contains the following information:

- i. Name, social security number, and Federal Employer Identification (FEI) number of the applicant;
- ii. Physical and mailing address of the applicant;
- iii. Telephone number and telefacsimile number, if applicable for the applicant;
- iv. Categories of service provided;
- v. Changes from the prior year, if necessary;
- vi. AHCCCS provider identification number;
- vii. Districts and counties served;
- viii. Place and date of birth; and
- ix. Dated signature.

- 3. From sources other than the applicant, the documents listed on the application form as follows:
 - a. Three letters of reference as prescribed in R6-6-1504(D), and
 - b. Documentation showing that the applicant's home or office has passed:
 - i. A fire inspection as prescribed in R6-6-1505, and
 - ii. A health and safety inspection as prescribed in R6-6-1505.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1504.04. Contents of a Complete Application Package - Renewal Certificate

A renewal application is complete when the Division has all the following information:

- 1. From the applicant, the following items:
 - a. AHCCCS provider registration form;
 - b. Documentation of current CPR and First Aid training, current driver's license, and applicable professional licenses and certifications, if prior documentation has expired;
 - c. A completed declaration of criminal history every 3 years since the date of initial certification; and
 - d. Documentation that fingerprints have been taken at 3-year intervals.
- 2. From sources other than the applicant, documentation that the applicant's home or office has passed a fire inspection every 2 years since the date of initial certification.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1504.05. Contents of a Complete Request for an Amended Certificate

A request for an amended HCBS certificate is complete when the Division has the following information:

- 1. AHCCCS provider registration form, and
- 2. Documentation to support the requested change.

Historical Note

Adopted effective February 1, 1998 (Supp. 98-1).

R6-6-1505. Setting Requirements for HCBS Service Providers

- A. Except as provided by R6-6-1521, the applicant shall cooperate with an initial health and safety inspection by ensuring the residence or facility which the applicant owns, rents, or leases, and in which the services are to be provided, if other than the client's home is fully accessible to an inspector approved by the Division. The health and safety inspection focuses on such areas as general appearance and cleanliness of the residence or facility, heating and cooling, ventilation, lighting, safety haz-

ards, swimming pools, yard, and the storage of toxic materials and medicines.

- B.** Except as provided by R6-6-1521, the applicant shall have a fire department or individual approved by the Division perform a fire inspection at the time of initial application and every 2 years after, on each residence or facility which the applicant owns, rents, or leases, and in which services are to be provided, unless the services are provided in the client's home. The applicant shall maintain the results of the fire inspection on file.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1506. Fingerprinting Requirements

- A.** Except as otherwise provided by R6-6-1521, each applicant shall be fingerprinted by:
1. Filing a request with the Department on a form prescribed by the Department and paying the applicable fees; or
 2. Filing a request with an agency authorized by state or federal statute to obtain fingerprints, paying the applicable fees, and having the fingerprints forwarded to the Department of Economic Security's Office of Special Investigations, located in Phoenix, Arizona.
- B.** Except as otherwise provided by R6-6-1521, the following individuals shall be fingerprinted for a criminal record check at the time of initial application or initial employment, and every 3 years from the date of clearance, thereafter:
1. All applicants, including individuals and agency administrators;
 2. Direct-care staff;
 3. Supervisors of direct-care staff; and
 4. All individuals age 18 and above who reside in the home when services are to be delivered in the applicant or service provider's home.
- C.** Each applicant who has been fingerprinted shall maintain a file which includes:
1. A clearance letter from the Department dated within 6 months of the date the fingerprints were taken; or
 2. A copy of a letter sent by the service provider to the Division stating that the clearance letter was not received within the required 6 months.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1507. Application for an HCBS Certificate Renewal

- A.** The Division shall send a notice of renewal to the service provider 60 days prior to the expiration of the HCBS certificate.
- B.** Not more than 30 days and not less than 10 days prior to the expiration date of a current HCBS certificate, an applicant shall apply to the Division for renewal on a form provided and prescribed by the Division. The form shall contain the following information:
1. Name;
 2. Home and business address;
 3. Social security number or tax identification number;
 4. AHCCCS registration number;
 5. Phone number; and
 6. Any services which the applicant wishes to:
 - a. Provide in addition to services currently on the HCBS certificate; or
 - b. Delete from services currently on the HCBS certificate.

- C.** The applicant shall include a copy of current licenses and training as required by this Article.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1508. Issuing an HCBS Certificate

- A.** The Division shall issue a new or renewal HCBS certificate to the applicant when it determines that:
1. The applicant meets the fingerprinting requirements provided by R6-6-1506;
 2. Each applicant and the direct-care staff of a contracted agency possess any license, have completed any training, and have the professional experience required by this Article; and
 3. The applicant demonstrates the ability, knowledge, experience, and fitness through personal references and past history to provide these services.
- B.** The HCBS certificate shall specify the services the applicant is certified to provide.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1509. Duration of an HCBS certificate

- A.** An initial HCBS certificate is valid for 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.
- B.** A renewal HCBS certificate is valid for 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).
Amended effective June 4, 1998 (Supp. 98-2).

R6-6-1510. Amending an HCBS Certificate

- A.** A service provider shall request an amendment to the HCBS certificate when any of the following information or circumstances change:
1. Name, address, or telephone number;
 2. Addition of a service to the Division's service contract;
 3. Deletion of a service to the Division's service contract;
 4. Change in the Tax ID#; or
 5. Change in AHCCCS provider type.
- B.** The service provider shall file a request for amendment not more than 30 days after the change by sending a written request to the Division.
- C.** The Division shall mail the service provider written notice of amendment approval or denial within 30 days of receipt of the written request.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1511. Maintenance of an HCBS Certificate

During the term of the HCBS certificate, each service provider shall keep the following requirements current:

1. Fingerprinting as provided by R6-6-1506;
2. Licensure, training, and professional experience as required in this Article; and
3. Records, as provided by R6-6-1519.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1512. Compliance Audit of HCBS Service Providers

- A.** The Division shall conduct a compliance audit of each HCBS service provider's records at least every 2 years. The Division shall schedule with the service provider the record audit at least 2 business days in advance.
- B.** The Division may conduct an unscheduled compliance audit as a result of a complaint or noncompliance issue.
- C.** The individual or contracted agency shall cooperate with the compliance audit conducted by the Division by:
 - 1. Making available the following information to the Division:
 - a. Fingerprint clearance letters for each individual as provided by R6-6-1506(B);
 - b. Written documentation of completion of a current Cardiopulmonary Resuscitation (CPR) certificate for each individual service provider and direct-care staff as provided by R6-6-1520(A)(1)(b);
 - c. Written documentation of current First-aid training for each individual service provider and direct-care staff as provided by R6-6-1520(A)(1)(c);
 - d. Written documentation that each individual service provider and direct-care staff has reviewed Article 9, except as provided by R6-6-1521;
 - e. Copies of 3 references for each direct-care staff as provided by R6-6-1504(D);
 - f. Written documentation showing that each individual service provider and direct-care staff has completed training in client intervention techniques as provided by R6-6-1520(C);
 - g. Written documentation showing that the individual providing service has received an orientation to the specific needs of each client served prior to the delivery of service, as provided by R6-6-1520(A)(1)(a);
 - h. A copy of a current valid driver's license, valid registration, and current liability insurance coverage as required by A.R.S. Title 28, Chapter 3, 4, and 7 for each individual providing transportation for a client;
 - i. Written documentation of any other training required by this Article; and
 - j. Written documentation of the date of hire for each direct-care staff of a contracted agency.
 - 2. Allowing the Division to interview employees; and
 - 3. Participating in the compliance audit entrance and exit conferences with Division employees.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1513. Complaints

- A.** Any person who has a complaint about an HCBS service provider may register an oral or written complaint with the Division.
- B.** If the complainant provides his or her name and address at the time the complaint is registered, the Division shall, within 30 days, send the complaining party notice that the complaint was received and of the action to be taken on the complaint.
- C.** The Division shall investigate complaints about the HCBS service provider within 10 calendar days of the receipt of the complaint. The Division shall notify the service provider that an investigation is in progress and provide an opportunity for the service provider to relate any information known regarding the complaint. If the Division has reasonable cause to believe that imminent danger exists, the Division shall conduct the investigation immediately, report to the appropriate authori-

ties, if applicable, and provide notice to the service provider that an investigation is in progress.

- D.** The Division shall notify the service provider of the results of an investigation through a summary of the investigative findings conducted pursuant to this rule and any corrective action. The Division may release the summary investigative findings by request to the responsible person or client, unless prohibited by A.R.S. §§ 41-1959 and 36-568.01.
- E.** Complaints are not considered a formal grievance. A grievance may be filed with the Division pursuant to R6-6-1801 et seq.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1514. Denial, Suspension, or Revocation of an HCBS Certificate

- A.** The Division may deny, suspend or revoke an HCBS certificate or an amendment to an HCBS certificate for any 1 or a combination of the following:
 - 1. An applicant or service provider refuses to cooperate in providing information as required in this Article; or
 - 2. An applicant or service provider violates applicable provisions of Articles 1, 9, 15, and 16.
- B.** The Division may deny or revoke an HCBS certificate if an applicant, individual service provider, or agency administrator has been convicted of, pled no contest to, or is currently awaiting trial on any of the following criminal acts:
 - 1. Sexual abuse of a child or vulnerable adult,
 - 2. Incest,
 - 3. First- or second-degree murder,
 - 4. Kidnapping,
 - 5. Arson,
 - 6. Sexual assault,
 - 7. Sexual exploitation of a child or vulnerable adult,
 - 8. Commercial sexual exploitation of a child or vulnerable adult,
 - 9. Felony offenses within the previous 10 years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs,
 - 10. Robbery,
 - 11. Child prostitution as defined in A.R.S. § 13-3206,
 - 12. Child abuse or abuse of a vulnerable adult,
 - 13. Sexual conduct with a child,
 - 14. Molestation of a child or vulnerable adult,
 - 15. Voluntary manslaughter, or
 - 16. Aggravated assault.
- C.** Upon notification that an agency employee is found to have been convicted of, awaiting trial on, or pled no contest to any of the criminal acts listed in R6-6-1514(B), an agency shall immediately take the following actions:
 - 1. Remove the employee from direct contact with clients; and
 - 2. Notify the Division, unless the agency initially received notice from the Division.
- D.** If an agency fails to comply with R6-6-1514(C), the Division may deny or revoke the agency HCBS certificate.
- E.** Upon notification that an individual service provider has been convicted of, pled no contest to, or is currently awaiting trial on any of the criminal acts listed in R6-6-1514(B), the Division shall immediately take the following action to assure that the individual service provider has no direct contact with the client:
 - 1. Prohibit the service provider from rendering services to the client,
 - 2. Notify the responsible person, and

3. Prevent further authorization for service with the service provider.
- F. If the criminal records check pursuant to R6-6-1506(B) indicates that an individual service provider, agency administrator, a direct-care staff person or the supervisor of a direct-care staff person has been convicted of or found by a court to have committed, or is reasonably believed to have committed, the offenses listed in A.R.S. § 36-594, other than those listed in R6-6-1514(B), the Division shall consider the following factors when determining what action to take regarding HCBS certification:
 1. The extent of the individual's criminal record;
 2. Length of time since the commission of the offense;
 3. Nature of the offense;
 4. Mitigating circumstances surrounding commission of the offense;
 5. The degree of the individual's participation in the offense;
 6. The extent of the individual's rehabilitation, including but not limited to:
 - a. Completion of all terms of probation, and
 - b. Payment of all restitution or compensation for the offense, and
 - c. Evidence of positive action to change criminal behavior such as completion of a drug treatment program or counseling,
 - d. References attesting to the individual's rehabilitation;
 7. The individual has the burden of providing evidence of mitigating factors listed in subsection (F).
- G. If the reason for denial, suspension, or revocation of a certificate involves a threat to the health, welfare, or safety of clients, the service provider shall not render services to a client.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).
 Typographical correction made to subsection reference in R6-6-1514 (F)(7) (Supp. 96-4).

R6-6-1515. Corrective Action Plan

- A. In lieu of revocation or suspension, the Division may require a service provider to implement a corrective action plan to correct HCBS certification deficiencies when:
 1. Allowing the service provider to continue services is in the best interest of the clients; and
 2. The client's health, safety, or welfare will not be jeopardized.
- B. The following conditions may result in a request for corrective action:
 1. Certificate in CPR or training in First Aid for an individual service provider or direct-care staff is not current;
 2. Written documentation of an orientation to the specific needs of each client is not available;
 3. Required training is not documented or not completed; or
 4. Fire inspection cannot be obtained within the time provided by R6-6-1505(B). The burden is on the service provider to document the inability to obtain a fire inspection.
- C. The Division shall notify the service provider in writing of each deficiency, the corrective action to be taken, and the deadlines for all corrective action.
- D. The service provider shall develop a corrective action plan and submit it to the Division.
- E. If the service provider does not provide the Division with written documentation showing the completion of corrective action by the deadlines in the notice of deficiency, the Division

may revoke or suspend the HCBS certificate pursuant to R6-6-1514.

- F. The Division's decision to require a corrective action plan is not subject to administrative review pursuant to R6-6-1516.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1516. Right to Administrative Review

- A. An applicant or service provider may request an administrative review pursuant to R6-6-1801 et seq. when the Division denies, suspends or revokes an HCBS certificate.
- B. The Division shall provide written notice at the time of the action to the applicant or service provider of the right to an administrative review.
- C. An appeal of any decision rendered in an administrative review shall be conducted in accordance with R6-6-2001 et seq., "Appeals and Hearings".
- D. An appeal of the decision of a hearing officer is conducted in accordance with A.R.S. § 41-1992.
- E. When a service provider timely appeals the decision to suspend or revoke an HCBS certificate, pursuant to R6-6-2001 et seq., revocation or suspension shall not become effective until the final administrative or judicial decision is rendered, except for suspensions made under A.R.S. § 41-1064(C).

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1517. Reporting Obligations of HCBS Service Providers

- A. If the following types of incidents occur while a client is in the direct care of a service provider, the service provider shall immediately report to the Division:
 1. The death of a client;
 2. Alleged neglect or abuse of a client;
 3. An incident related to a client that involves law enforcement personnel, emergency services, emergency medical care, the media, or emergency medical techniques;
 4. Suicide attempts by a client; and
 5. Community complaints about a client.
- B. The service provider shall report a missing client to law enforcement officials and the Division as soon as the service provider determines that the client is missing.
- C. The service provider shall cooperate in any investigation by obtaining and providing any available information related to the incident to the Department or a law enforcement agency conducting the investigation.
- D. The report shall include at a minimum:
 1. The full name of the client,
 2. The name and phone number of the individual making the report, and
 3. A summary of the circumstances.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1518. Rights of Clients

All service providers shall observe the rights of clients listed in A.R.S. § 36-551.01 and A.A.C. R6-6-102.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1519. Records

- A.** Each service provider shall maintain, as required in this Article, the applicable records listed in subsection (B). Each individual service provider shall maintain his or her own records and may do so by making arrangements with the Division to keep current records on file with the Division. Each agency service provider shall maintain these records for all agency employees as required by this Article.
- B.** The records shall include the following items:
1. Verification of fingerprints taken as provided by R6-6-1506, a copy of the clearance letter provided by R6-6-1506(C)(1) and the declaration regarding criminal history provided by R6-6-1504(B)(6);
 2. Written documentation of a current certificate for CPR and training in First Aid;
 3. Current license and any other certificate required by this Article;
 4. Written documentation that any training required in this Article has been completed;
 5. Proof that each employee is at least 18 years old;
 6. Reference letters for each direct-care staff and supervisor of direct-care staff of an agency;
 7. Written documentation that each service provider or direct-care staff has the experience required in this Article; and
 8. Copies of all other documents required by this Article.
- C.** Each individual making a written entry into personnel or client records shall initial the entry. All entries shall be:
1. Legible,
 2. Typed or written in ink,
 3. Dated, and
 4. Factual and correct.
- D.** All training documentation shall be signed and dated by the trainer or individual designated to confirm training documentation.
- E.** If required records are kept in more than 1 location, the service provider shall maintain a list indicating the location of the records.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1520. Basic Qualifications, Training, and Responsibilities

- A.** The following minimum requirements apply to all agency service providers:
1. When a Home and Community-based Service is delivered, a direct-care staff who has completed the following required training and orientation shall be present, except as provided by R6-6-1521:
 - a. Orientation to the specific needs of the client being served;
 - b. CPR to meet the needs of the client and provided by a certified instructor;
 - c. First aid, provided by a certified instructor unless the direct-care staff is a licensed registered nurse (R.N.), LPN, Certified Nursing Assistant, or a Physical, Occupational, Respiratory, or a Speech/Hearing therapist; and
 - d. Article 9 review.
 2. A direct-care staff shall complete the following training before working alone with clients. The training shall occur no later than 90 calendar days from the date of hire with the agency, except as provided by R6-6-1521:
 - a. CPR, provided by a certified instructor to meet the needs of the client served;

- b. First aid, provided by a certified instructor, unless the direct-care staff is a licensed R.N., LPN, Certified Nursing Assistant, or a Physical, Occupational, Respiratory, or a Speech/Hearing therapist; and
- c. Article 9 Review.

- B.** All individual service providers providing direct care to clients shall complete the training and orientation listed in R6-6-1520(A)(1) prior to delivering services, except as provided by R6-6-1521:
- C.** Each individual service provider and direct care staff of an agency shall complete client intervention techniques training if indicated in the ISPP or requested by the parent or guardian. CIT training shall be provided by a certified instructor.
- D.** Each individual service provider and direct-care staff of an agency who transports clients shall maintain a current valid driver's license, valid registration, and current liability insurance coverage as required by A.R.S. Title 28, Chapters 3, 4, and 7.
- E.** When providing housekeeping services, an individual or direct-care staff is exempt from the requirements of R6-6-1520.
- F.** Each service provider and direct-care staff shall comply with Article 9, except R6-6-902(B) does not apply when services are provided in the client's home.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1521. Additional Qualifications for Attendant Care Services

- A.** An individual who wishes to provide Attendant Care services and is not an immediate relative of the client shall comply with this Article in order to obtain an HCBS certificate.
- B.** The Division shall not compensate a spouse to provide Attendant Care services to the other spouse.
- C.** Immediate relatives may provide Attendant Care services except as required in subsection (B), and a client's natural, adoptive, or stepparent may only provide Attendant Care services to a client who is 21 years of age or older.
- D.** When a client is age 21 years or older and a parent provides Attendant Care services, the parent shall apply for an HCBS certificate and shall have:
1. A current CPR certificate,
 2. Current training in First Aid, and
 3. Training in such other subjects as indicated in the ISPP.
- E.** When a client's immediate relative other than the client's parent, provides the client with Attendant Care services, the immediate relative shall apply for an HCBS certificate and shall have:
1. Current CPR certificate,
 2. Current training in First Aid,
 3. Written documentation of a health and safety inspection unless the services are provided in the client's home,
 4. Written documentation of a fire inspection unless the services are provided in the client's home, and
 5. Such other training as indicated in the ISPP.
- F.** An immediate relative shall comply with the fingerprinting requirements in R6-6-1506 when:
1. The client is under age 18, and
 2. The client is age 18 or older and does not live with the immediate relative providing Attendant Care services.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1522. Additional Qualifications for Day Treatment and Training Services

In addition to the general requirements in R6-6-1520, each individual who provides Day Treatment and Training services shall:

1. Have at least 3 months' experience in conducting group or individual activities related to specific developmental, habilitative, or recreational programs, or be supervised by an individual with such experience; and
2. Have completed training, approved by the Division, in early childhood development when working with children who are under age 6.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1523. Additional Qualifications for Habilitation Services

In addition to the general requirements in R6-6-1520, each direct care staff of an agency and each individual service provider who provides Habilitation services shall:

1. Have at least 3 months' experience implementing and documenting performance in individual programs;
2. Have both 3 months' experience in providing either respite or personal care, and have received training, approved by the Division, in implementing and documenting performance; or
3. Perform 3 months of habilitation services under the direct supervision of an individual who is qualified to provide habilitation under subsection (1) or (2).

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1524. Additional Qualifications for Home Health Aide Services

In addition to the general requirements in R6-6-1520, only a Medicare-certified home health agency shall perform Home Health Aide services.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1525. Additional Qualifications for Home Health Nurse Services

- A. In this Section, "not available" means that the Division has made an effort to procure Home Health Nurse services through a Medicare-certified home health agency but one cannot be contracted with in the geographic location to provide these services.
- B. In addition to the general requirements in R6-6-1520, Home Health Nurse services shall be provided through:
 1. A Medicare-certified home health agency; or
 2. A home health agency licensed by the state of Arizona which only allows an R.N. to provide nursing service, if a Medicare-certified home health agency is not available; or
 3. An independent R.N. currently licensed to practice professional nursing by the Arizona Board of Nursing, if a Medicare-certified home health agency is not available.
- C. An R.N. or an L.P.N. who is supervised by an R.N. shall provide home health nursing. Services may be provided through a Medicare-certified home health agency, a licensed home health agency, or by an independent nurse currently licensed to practice professional nursing by the Arizona Board of Nursing.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1526. Additional Qualifications for Hospice Services

In addition to the general requirements in R6-6-1520, services shall be provided by a Hospice:

1. Licensed by the Arizona Department of Health Services, and
2. Certified by Medicare.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1527. Additional Qualifications for Housekeeping Services

In addition to the general requirements in this Article, each individual who provides housekeeping services shall receive an orientation to the specific housekeeping needs of the client.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1528. Additional Qualification for Occupational Therapy Services

In addition to the general requirements in R6-6-1520, each individual who provides Occupational Therapy services shall be currently licensed as an Occupational Therapist by the state of Arizona, Board of Occupational Therapy Examiners.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1529. Additional Qualifications for Personal Care Services

In addition to the general requirements in R6-6-1520, each individual who provides Personal Care services shall:

1. Have at least 3 months experience in providing assistance to an individual to meet essential personal physical needs, such as showering, bathing, toileting, and eating; and
2. Complete training approved by the Division in home accident prevention.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1530. Additional Qualifications for Physical Therapy Services

In addition to the general requirements in R6-6-1520, each individual who provides Physical Therapy services shall be currently licensed as a Physical Therapist by the state of Arizona, Board of Physical Therapy Examiners.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1531. Additional Qualifications for Respiratory Therapy Services

In addition to the general requirements in R6-6-1520, each individual who provides Respiratory Therapy services shall be currently licensed as a Respiratory Therapist by the state of Arizona, Board of Respiratory Care Examiners.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1532. Additional Qualifications for Respite Services

In addition to the general requirements in R6-6-1520, each individual who provides Respite services shall have at least 3 months' experience in providing assistance to an individual to meet essential personal physical needs as described in R6-6-1529.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

R6-6-1533. Additional Qualifications for Speech/Hearing Therapy Services

In addition to the general requirements in R6-6-1520, each individual who provides Speech/Hearing Therapy services shall:

1. Have a Master's degree in speech-language pathology,
2. Have a Certificate of Clinical Competence from the American Speech and Hearing Association, and
3. Have a current membership card from the American Speech-Language Hearing Association.

Historical Note

Adopted effective February 1, 1996; filed in the Office of the Secretary of State December 26, 1995 (Supp. 95-4).

ARTICLE 16. ABUSE AND NEGLECT

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1601. Reporting Procedures

- A. Any employee of an agency contracting with the Department to provide services (service provider) who must physically defend self or others against a client's aggressive behavior shall use the minimum amount of force necessary to control the situation and shall immediately report the incident to the employee's supervisor or the District Program Manager and record the incident in the daily log or client record.
- B. Any employee of a service provider who injures a client shall immediately report the incident to the employee's supervisor or the District Program Manager and record the incident in the daily log or client incident record.
- C. Any employee of a service provider who observes abusive treatment or neglect of a client shall intervene on the client's behalf and shall immediately report the incident to the employee's supervisor or the District Program Manager and record the incident in the daily log or client incident record.
- D. All cases of possible abusive treatment or neglect of a client shall be reported immediately by an employee of a service provider to his supervisor or the District Program Manager and the employee shall record the incident in the daily log or client incident record.
- E. An employee of a service provider shall report to the employee's supervisor or the District Program Manager any situation in which another employee intimidates a client, parent, guardian, or fellow employee in connection with or to prevent the reporting of any incident described above.
- F. Whenever an employee of a service provider reports to the employee's supervisor an incident as described above, that supervisor shall report the incident immediately to the District Program Manager.

Historical Note

Adopted effective June 23, 1981 (Supp. 81-3). Amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1602. Investigation

- A. Upon receipt of an incident report, the District Program Manager shall initiate an investigation of the incident.
- B. The supervisor to whom a case of possible abusive treatment or neglect of a minor client is reported shall refer the matter immediately to Child Protective Services for investigation.

Historical Note

Adopted effective June 23, 1981 (Supp. 81-3). Amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1603. Medical Evaluation

- A. The employees of a service provider immediately shall refer any client who appears to have been abused, neglected, or injured for medical evaluation by nursing staff. If nursing staff is unavailable, the client shall be referred immediately to a licensed physician.
- B. If the nursing staff, during the course of any medical evaluation, notes any injury to a client which is not clearly due to an accidental cause, it shall arrange for the client to be seen immediately by a licensed physician. The physician shall examine the client for signs of neglect and abusive treatment and send a written report to the District Program Manager within seven days.

Historical Note

Adopted effective June 23, 1981 (Supp. 81-3). Amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 17. HUMAN RIGHTS COMMITTEES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1701. Establishment of Committees

There shall be at least three Human Rights Committees established by the Department. The Director shall have the option of establishing more than one committee to serve a District or of sanctioning the operation of a committee in association with a service provider. However, every committee shall meet the requirements of this Article.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Amended effective June 7, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-2). Amended effective September, 30, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1702. Membership

- A. Candidates for initial membership on a local committee shall be recruited by the Department Administrator with input and advice from the local Association for Retarded Citizens, Developmental Disabilities Advisory Council, and any other appropriate local advocacy organization. The Director shall appoint committee members from the list of candidates recruited locally.
- B. Each committee shall be composed of at least 7 and not more than 15 persons with expertise in one or more of the following areas: psychology, law, medicine, education, special education, and parents of the developmentally disabled.
- C. No employee of the Department or of a service provider which is associated with a sanctioned Human Rights Committee may be a voting member of a committee.
- D. When there is a vacancy in committee membership, nominees may be presented to the committee by advocacy groups, committee members or the Department Administrator. Upon recommendation by the committee, by at least a majority vote, the Director shall appoint a person to fill the vacancy.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

R6-6-1703. Procedure

Each committee shall meet at least six times each calendar year. Within three months of its formation, each committee shall have established written rules by which the committee and its membership shall be governed. Such rules shall in no way conflict with this Article and shall set out at least terms of membership, quorum and attendance requirements, and procedures for conducting committee business. Committee rules shall be approved by at least a majority vote of the committee and are subject to veto by the Department Administrator if, in his opinion, the rules do not promote participation by all interested sectors of the community which is to be served by the committee.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1704. Committee Responsibilities

- A. The Human Rights Committee shall provide independent oversight and review in the following areas:
 - 1. To ensure that the rights of clients are protected as provided in R6-6-903.
 - 2. With regard to research in the field of developmental disabilities.
 - 3. With regard to incidents of possible abuse, neglect or denial of a client's rights.
- B. Written objections of the committee to actions by employees of the Division or service providers shall be forwarded to the Assistant Director for review.
- C. Each committee shall issue an annual report summarizing its activities and making recommendations of changes it believes the Division should consider implementing.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Amended effective June 7, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-2). Amended effective September, 30, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1705. Staff

A committee may request the services of a consultant to advise it on specific issues or a staff person. The cost of the consultant or staff person shall be assumed by the Division subject to the availability of funds specifically allocated for this use. A consultant or staff person may be a member of another Human Rights Committee or an employee of the Department or a service provider. No committee consultant or staff person shall vote or otherwise direct committee decision-making.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Amended effective June 7, 1993, under an exemption from A.R.S.

Title 41, Chapter 6 (Supp. 93-2).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1706. Access to Records

Committee members, staff persons and consultants shall have access to Division client records to the extent necessary to dis-

charge their respective duties, provided that they have signed a statement agreeing to adhere to all applicable statutes and rules regarding confidentiality.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Amended effective June 7, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-2).

ARTICLE 18. ADMINISTRATIVE REVIEW

Editor's Note: The following Section was repealed, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1801. Right to Review: Notice

- A. An Administrative Review shall be available to any person aggrieved by a decision of the Department. An Administrative Review is preliminary to those rights set forth in R6-6-2001 et seq.
- B. The Department shall give written notice to persons served directly or indirectly by the Department informing them of the right to an Administrative Review in any decisions by a District Program Manager relating to:
 1. Eligibility, admission, placement evaluation, and assignment to services.
 2. Care and treatment, transfer or substantial change in service.
 3. Termination of, or discharge from, a service
 4. Fee for service.
- C. Grievances related to decisions by the program contractor for licenses or involving DD/ALTCS clients and ALTCS service providers are separately addressed in R6-6-1803 and R6-6-1804 respectively.
- D. Written notice shall be in English and, when appropriate and reasonably possible to do so, in the primary language of the grievant. When the primary language is not a written language, such notice shall be provided in the language spoken or mode of communication used by the grievant.

Historical Note

Adopted effective March 8, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1801 repealed, new Section R6-6-1801 renumbered from R6-6-1802 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1802. General Procedures

These procedures are applicable to all grievances except those listed in R6-6-1801(C).

1. A party aggrieved by the decision of a District Program Manager or any member of an Individual Service and Program Plan (ISPP) Team, may, within 35 calendar days of the decision or disagreement, file a written request for an Administrative Review with the Division's Compliance and Review Unit.
2. If a District Program Manager takes no action as to the resolution of a disagreement, the grievant may, within 60 calendar days, forward a written request for an Administrative Review to the Division's Compliance and Review Unit.
3. The Division's Compliance and Review Unit shall review the request for an Administrative Review and render a written decision within 30 calendar days of receipt of the request.
4. While an Administrative Review is pending, there shall be no change in status except in the event of an emergency.

Historical Note

Adopted effective March 8, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1802 renumbered to R6-6-1801, new Section R6-6-1802 renumbered from R6-6-1803 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1803. Procedures for Grievances Related to Licenses

The party aggrieved by a decision of the Department relating to a license may directly appeal the decision as prescribed in A.A.C. R6-6-2001 et seq.

Historical Note

Adopted effective March 8, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1803 renumbered to R6-6-1802, new Section R6-6-1803 renumbered from R6-6-1804 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1804. Procedures for Grievances by DD/ALTCS Clients and ALTCS Service Providers

- A. The DD/ALTCS client or ALTCS service provider desiring an Administrative Review shall first attempt to resolve the complaint through informal communication with the appropriate Health Plan representative or the District Program Manager.
- B. If the client or service provider is dissatisfied with the informal decision of the Health Plan or District Program Manager, a

written request for an Administrative Review shall be filed with the Division's Compliance and Review Unit not later than 35 calendar days after the adverse action.

- C. If the Health Plan or District Program Manager takes no action as to the resolution of a disagreement, the grievant may, within 60 calendar days of the adverse action, file a written request for an Administrative Review with the Division's Compliance and Review Unit.
- D. The Division's Compliance and Review Unit shall review the written request and render a written decision within the times prescribed under ALTCS (A.A.C. R9-28-802 or R9-28-804).

Historical Note

Adopted effective March 8, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1804 renumbered to R6-6-1803, new Section R6-6-1804 renumbered from R6-6-1805 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1805. Appeals and Hearings

An appeal of any Administrative Review decision shall be governed by the procedures set forth in A.A.C. R6-6-2001 et seq.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1805 renumbered to R6-6-1804, new Section R6-6-1805 renumbered from R6-6-1806 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-1806. Renumbered

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-1806 renumbered to R6-6-1805 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

ARTICLE 19. CONTRACTS

R6-6-1901. Definitions

The following definitions apply in this Article:

1. "Competitive solicitation" means an invitation from the Division to 2 or more parties for the submission of proposals for the provision of goods or services.
2. "Contract" means all types of state agreements, regardless of what they may be called, for the procurement of goods or services.

3. "Offeror" means a person who or an entity which submits a proposal to the Division in response to a request for goods or services.
4. "Procurement" means buying, purchasing, renting, or leasing or otherwise acquiring any goods or services. Procurement also includes all functions that pertain to the obtaining of any good or service including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
5. "Proposal" means all documents, whether attached or incorporated by reference, that an offeror submits to the Division to make an offer to provide goods or services.
6. "Qualified offeror" means an offeror who meets the specific requirements set forth in a request for proposals.
7. "Request for proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals for goods or services.

Historical Note

Adopted effective October 16, 1981 (Supp. 81-5). Repealed effective August 29, 1991 (Supp. 91-3). Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1902. Contracting Process

- A. The Division shall procure goods and services in the manner prescribed in A.R.S. Title 41, Chapter 23 ("The Arizona Procurement Code"), except for goods and services described in Laws 1995, Ch. 84, § 3.
- B. The Division shall procure goods and services described in Laws 1995, Ch. 84, § 3 by following the procedures in this Article when any of the following conditions occur:
 1. The Division has issued a competitive solicitation, pursuant to A.R.S. § 41-2534, and the solicitation has not resulted in the number of offerors needed to meet the service needs of the clients;
 2. The Division has identified an immediate or emergency service need and current providers cannot meet the need;
 3. The Division solicits proposals for acute care services from health plans, pursuant to R6-6-1905;
 4. The Division needs acute care providers for a geographic area in which:
 - a. No health plan has responded to the Division's solicitation of proposals under R6-6-1905;
 - b. The offeror has withdrawn from the solicitation process described in this Article; or
 - c. The offeror cannot reach an agreement with the Division during the solicitation process described in this Article; or
 5. A federal or state statute, regulation, rule, or programmatic change requires the Division to make changes in mandated ALTCS services, in ALTCS service delivery, or in the administration of the DD/ALTCS program.

Historical Note

Adopted effective October 16, 1981 (Supp. 81-5). Repealed effective August 29, 1991 (Supp. 91-3). Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days

(Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1903. Solicitation for Offerors

When a competitive solicitation does not result in the number of offerors required to meet the service needs of the clients, the Division shall:

1. Recruit a potential offeror by advertisement or other reasonable means of communicating the service need;
2. Verify that an offeror complies with all applicable Division and AHCCCS qualification, licensing, and certification requirements for the service as described in the original request for proposals;
3. Establish a contract with a qualified offeror;
4. Request that each provider contracting under this rule submit proposals in response to the next competitive solicitation the Division issues under A.R.S. Title 41, Chapter 23 for these services;
5. Advise each provider that failure to respond to the next competitive solicitation will result in expiration of the existing contract; and
6. Send each provider holding a contract under this Section a notice of the next competitive solicitation for the service.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1904. Immediate or Emergency Need for Services

When the Division identifies an immediate or emergency need for service and current providers cannot meet the service need, the Division shall follow the steps listed in R6-6-1903 to procure the service.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1905. Acute Care - Solicitation of Service From Health Plans

- A. The Division shall solicit proposals from providers of acute care services. The Division shall include at least the following information in the request for proposals:
 1. The time and date set for the proposal opening;
 2. The address of the office at which proposals are to be received;
 3. The period during which the offer contained in the proposal will remain open;
 4. The service description, covered populations, geographic coverage, specifications, and a delivery or performance schedule;
 5. The contract terms and conditions, including bonding or other security requirements, if applicable;
 6. A provision for the award of contracts by category of member or service in order to secure the most financially advantageous offers for the state;

7. A provision that each submitted proposal describe each category of member, type of service, and geographic area the offeror will cover in the proposed contract;
 8. A provision for a procedure allowing the Division to request voluntary price reduction of offers from only those offerors the Division has tentatively selected for award, before the final award or rejection of proposals;
 9. The factors to be used in the evaluation;
 10. The location and method for obtaining documents that are incorporated by reference in the Division's request for proposals;
 11. The requirement that the offeror acknowledge receipt of all amendments issued by the Division;
 12. The type of services required and a description of the work involved;
 13. The type of contract to be used and a copy of a proposed contract form or provisions;
 14. The estimated length of time during which services will be required;
 15. A requirement for cost or pricing data;
 16. The minimum information that an offeror shall submit with a proposal; and
 17. A provision requiring that an offeror to certify that the submission of the proposal does not involve collusion or other anti-competitive practice.
- B. The Division shall conduct discussions with qualified offerors to provide information about, and assure full understanding of, and responsiveness to, the request for proposals.
 - C. The Division shall accord offerors fair treatment with respect to any opportunity for discussion and revision of proposals, and may permit such revisions after submissions and before award of the contract for the purpose of obtaining best and final offers.
 - D. Prior to the award of the contract, the Division shall not disclose information derived from proposals submitted by competing offerors.
 - E. The Division may request voluntary price reduction of offers contained in the submitted proposals before the final award or rejection of proposals.
 - F. The Division may issue 1 or more written requests for a best and final offer to responsive offerors, which shall set forth the date, time, and place for the submission of this offer. If the offeror does not submit a notice of withdrawal or a best and final offer in response to the Division's request, the Division shall use the offeror's most recent offer as the best and final offer.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1906. Acute Care - Evaluation of Proposals; Cancellation

- A. The Division shall base proposal evaluations on the evaluation factors set forth in the request for proposals.
- B. The Division shall send a written notice of rejection to offerors whose proposals are rejected and maintain a copy of the notice in the procurement file.
- C. The Assistant Director may cancel a request for proposals or may reject any and all proposals in whole or in part if the Assistant Director determines that the cancellation or rejection is in the state's best interest based on the following factors:
 1. The availability of funding,

2. The inability to come to agreement with offerors,
 3. A change in the need for services,
 4. The potential for loss of federal funds,
 5. A change in federal or state requirements which affect the service specified in the proposal, and
 6. Collusion or anti-competitive practices on the part of an offeror.
- D.** The Division shall document the reasons for the cancellation or rejection in the procurement file.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1907. Acute Care - Award of Contracts

- A.** The Division shall award a contract:
1. To the qualified offeror who submits the most advantageous proposal to the state based on the evaluation factors set forth in the request for proposals; and
 2. By the category of member, type of service, and geographic area.
- B.** The Division may award contracts to more than 1 offeror for each geographic area in the state for the purpose of limiting the number of high-risk clients who may be included in each contract.
- C.** The Division shall not award a contract to any offeror who will cause the state to lose any federal monies to which the state is otherwise entitled.
- D.** The Division shall document the reasons for the award in the procurement file.
- E.** The Division shall notify each unsuccessful offeror of the award of the contract.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1908. Acute Care - Protests

- A.** The Assistant Director shall resolve any protest filed concerning a contract proposal or award covered by this Article.
- B.** An offeror may protest a contract proposal or award by filing a written protest with the Assistant Director.
- C.** A protest shall include the following information:
1. Name, address, and telephone number of the protester;
 2. Signature of the protester or its representative;
 3. Identification of the request for proposals or contract number;
 4. A statement of the legal and factual grounds of the protest including copies of any relevant documents; and
 5. The relief requested.
- D.** The protester shall file the protest within 1 of the following timeframes:
1. Prior to the closing date for receipt of initial proposals if the protest relates to a request for proposals; or
 2. Within 14 working days after a contract award has been made public as described in R6-6-1907(E), if the protest relates to the award of a contract.

- E.** A protest is deemed filed when the written document is received by the Division.
- F.** If a protest is filed before the award of a contract, the Division may award a contract unless the Assistant Director makes a written determination that there is reasonable probability that the protest will be sustained and that the stay of award of the contract is consistent with the best interests of the state.
- G.** Within 14 work days of the filing date of a protest, the Assistant Director shall send a written decision to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The Assistant Director shall explain the reasons for the conclusions reached in the decision.
- H.** If the Assistant Director sustains the protest in whole or part, and determines that the request for proposals, proposed contract award, or contract award does not comply with applicable statutes and rules, the Assistant Director shall implement an appropriate remedy as prescribed in subsection (J).
- I.** In determining an appropriate remedy, the Assistant Director shall consider the following:
1. Circumstances surrounding the procurement or proposed procurement,
 2. The seriousness of the procurement deficiency,
 3. The degree of prejudice to other interested parties,
 4. The degree of prejudice to the integrity of the procurement system,
 5. The good faith of the parties,
 6. The extent of performance,
 7. The costs to the state,
 8. The urgency of the procurement, and
 9. The impact of the relief on the Department's mission.
- J.** The following actions, alone or in combination, shall serve as an appropriate remedy:
1. Decline to exercise an option to renew under the contract,
 2. Terminate the contract,
 3. Reissue the request for proposals,
 4. Issue a new request for proposals, or
 5. Award a contract as provided in these procurement rules.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1909. Acute Care Providers in Geographic Area With No Health Plan

The Division shall recruit individual providers for acute care services by following R6-6-1903(1), (2), and (3) when:

1. The Division has 1st tried to obtain offers by issuing a solicitation of service as prescribed in R6-6-1905; and
2. The Division finds;
 - a. A response is not obtained,
 - b. An offeror withdraws from the solicitation process, or
 - c. An agreement does not result between a health plan and the Division.

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted with changes effective April 17, 1996 (Supp. 96-2).

R6-6-1910. Statute, Regulation, Rule, or Program Change

When a new federal or state statute, regulation, rule, or programmatic change involving the DD/ALTCS program or administration requires the Division to comply by modifying current programs, the Division shall follow the steps in R6-6-1903(1), (2), and (3).

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted effective April 17, 1996 (Supp. 96-2).

R6-6-1911. Procurement Records

The Division shall maintain the following records relating to the procurement of contracts in the procurement file, if applicable:

1. A copy of the request for proposals;
2. The proposals received;
3. The best and final offers;
4. Written correspondence;
5. The basis for award;
6. The documentation required by R6-6-1906(D) and R6-6-1907(D).

Historical Note

Adopted by emergency action effective September 13, 1995, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 95-3). Adopted again by emergency action effective March 12, 1996, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 96-1). Adopted effective April 17, 1996 (Supp. 96-2).

R6-6-1912. Repealed**Historical Note**

Adopted effective April 17, 1996; automatically repealed effective May 1, 1996 (Supp. 96-2).

Editor's Note: The above Section was adopted and automatically repealed during the same calendar quarter. For the text of this Section, please refer to 2 A.A.R. 1691, May 10, 1996.

ARTICLE 20. APPEALS AND HEARINGS

Editor's Note: The following Section was repealed, renumbered, and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2001. Right to Appeal

- A. Any party aggrieved by a decision of the Department rendered in an administrative review in R6-6-1801 et seq. has the right to appeal under these rules.
- B. A DD/ALTCS member appealing an administrative review decision rendered in R6-6-1805 shall file a request for hearing with the AHCCCS Administration through the Department:
 1. The request shall be in writing and shall be filed within 15 days of the personal delivery or postmark date of the final decision.
 2. The Department shall forward the request directly to the AHCCCS Grievance and Appeals Division.

3. The provisions of R6-6-2003 through R6-6-2016 do not apply to DD/ALTCS clients.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2001 repealed, new Section R6-6-2001 renumbered from R6-6-2002 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2002. Filing an Appeal

- A. Any party appealing under these rules shall file a written request for hearing with the Department within 15 days after the mailing date of the Department's decision.
- B. A document shall be considered received by and filed with the Department:
 1. If transmitted via the United States Postal Service, on the date it is mailed. The mailing date shall be:
 - a. As shown by the postmark; or
 - b. As shown by the postage meter mark of the envelope in which it is received if there is no postmark; or
 - c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 2. On the date it is received by the Department, if transmitted by any means other than the United States Postal Service.
 3. The submission of any document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay caused by the United States Postal Service.
- C. The Department shall advise the appellant of the right to counsel and, if asked, shall assist in completing the hearing request.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2002 renumbered to R6-6-2001, new Section R6-6-2002 renumbered from R6-6-2003 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2003. Service on Parties

Any document mailed by the Department shall be considered as having been served on the addressee on the date it is mailed to the addressee's last known address. The date mailed shall be presumed

to be the date of the document, unless otherwise indicated by the facts.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2003 renumbered to R6-6-2002, new Section R6-6-2003 renumbered from R6-6-2004 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2004. Time

Any reference within this Article to "days" shall mean calendar days unless otherwise specified. In computing any period of time, the date of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be counted, unless it is a Saturday, a Sunday, or a legal holiday.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2004 renumbered to R6-6-2003, new Section R6-6-2004 renumbered from R6-6-2005 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2005. Representation of Parties

The appellant may appear for himself, or be represented by an attorney, or be assisted by any other person he designates.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2005 renumbered to R6-6-2004, new Section R6-6-2005 renumbered from R6-6-2006 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2006. Continuation of Services

Benefits may be reduced or terminated prior to a hearing decision only as provided by federal statute, regulation, state statute or rules. Notice of any change shall be given to the appellant as soon as possible, including written notice ten days prior to the change.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2006 renumbered to R6-6-2005, new Section R6-6-2006 renumbered from R6-6-2007 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2007. Scheduling and Notice of Hearing

- A. Hearings shall be held at those regularly established hearing locations most convenient to the parties or, at the discretion of the hearing officer, by telephone. The parties shall be given no less than 20 days notice of hearing, except that the parties may waive the notice period or request a delay.
- B. The notice of hearing shall inform the appellant of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and the appellant's right to:
 1. Present the appellant's case in person or by telephone;
 2. Copy any documents in the appellant's case file and all documents and records to be used by the Department at the hearing at a reasonable time before the hearing;
 3. Obtain assistance from the Division in preparing the appellant's case;
 4. Make inquiry at the Division about availability of free legal resources which could provide representation at the hearing; and
 5. Request a change of hearing officer.
- C. If a party contacts the Department promptly after receiving the notice of hearing and requests a postponement for good cause, the hearing officer shall grant a postponement for a reasonable period. Good cause exists when the circumstances causing the request are beyond the reasonable control of the requesting party and failure to grant the postponement would result in undue hardship to the requesting party.
- D. All scheduling is the responsibility of the Appellate Services Administration/Long-term Care for ALTCS service provider appeals and the Office of Appeals for all others.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2007 renumbered to R6-6-2006, new Section R6-6-2007 renumbered from R6-6-2008 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the

rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2008. Change of Hearing Officer

Not less than five days before the date set for the hearing, any party may file a written request for change of hearing officer and the matter shall immediately be transferred to another hearing officer. A hearing officer may be challenged for cause at any time before a decision becomes final. Except for good cause, not more than one change of hearing officer shall be granted to any one party.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2008 renumbered to R6-6-2007, new Section R6-6-2008 renumbered from R6-6-2009 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2009. Failure of a Party to Appear

- A. If there is no appearance on behalf of a party at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or may make his decision on the record and on such evidence as may be presented at the scheduled hearing.
- B. If, within 15 days of the scheduled hearing, a party files a written request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice shall be given of the time, place, and the purpose of any continued, reopened, or rescheduled hearing to all parties. Good cause shall be established upon proof that both the failure to appear and failure to timely notify the hearing officer were beyond reasonable control of the nonappearing party.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2009 renumbered to R6-6-2008, new Section R6-6-2009 renumbered from R6-6-2010 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2010. Prehearing Summary

- A. A prehearing summary of the facts and grounds for the action shall be prepared by the Division and must reach the Department no less than five days before the hearing.
- B. A copy of the summary shall be provided to the appellant at the same time that it is provided to the Department.

- C. The summary shall be typewritten. The summary shall contain:

1. Appellant's name, Social Security number, and case name and number if different;
2. The responsible Division;
3. A brief summary of circumstances supporting the Department's action; and
4. Exact manual references used by the Division in its determination.

Historical Note

Adopted effective March 7, 1983 (Supp. 83-2). Section repealed, new Section adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2010 renumbered to R6-6-2009, new Section R6-6-2010 renumbered from R6-6-2011 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2011. Subpoena of Witnesses and Documents

The hearing officer may subpoena any witnesses or documents requested by any party, or upon his own motion.

1. The request shall be in writing and shall state the name and address of the witness and the nature of his expected testimony. The nature of the witness' testimony must be relevant to the issues of the hearing; otherwise the hearing officer may deny the request.
2. A request for subpoena of documents shall describe the documents in detail and provide the name and address of the custodian of the documents.
3. The request for the issuance of a subpoena shall be filed a minimum of three working days before the hearing.
4. The Department shall prepare and serve all subpoenas. Service of the subpoena shall be accomplished by certified mail, return receipt requested.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2011 renumbered to R6-6-2010, new Section R6-6-2011 renumbered from R6-6-2012 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2012. Conduct of Hearing

- A. Hearings shall be conducted in an orderly and dignified manner. All hearings shall be open to the public, but the hearing officer conducting a hearing may close the hearing to everyone other than the parties to the extent necessary to protect the interests and rights of the parties.

- B. Hearings shall be opened, conducted and closed by the hearing officer who shall rule on the admissibility of evidence, and shall direct the order of proof. He shall have the power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of any documents he deems necessary as evidence in connection with a hearing.
- C. The hearing is a de novo proceeding. The Department has the initial burden of going forward with presentation of evidence.
- D. Evidence not related to the issue shall not be allowed to become a part of the record.
- E. The hearing officer may, on his own motion, or at the request of a party, exclude witnesses from the hearing room.
- F. The case manager, supervisor, licensing worker, or other appropriate person may be designated Department spokesperson for the hearing. The Department spokesperson may testify and present written evidence on behalf of the Department.
- G. The parties may present evidence, cross-examine witnesses and present arguments.
- H. The parties to an appeal, with the consent of the hearing officer, may stipulate to facts involved in writing or on the record.
- I. At the conclusion of a hearing, the parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The hearing officer shall afford the parties an opportunity to present oral argument or to file briefs, or both.
- J. A full and complete record shall be kept of all proceedings in connection with an appeal. The record shall be open for inspection by the appellant or his representative at a place accessible to him. A transcript of the proceedings need not be made unless it is required for further proceedings.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2012 renumbered to R6-6-2011, new Section R6-6-2012 renumbered from R6-6-2013 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2013. Hearing Decision

- A. The hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Department rules governing the issue in dispute.
- B. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision and the reasons therefore. A copy of the decision, together with an explanation of the appeal rights, shall be delivered or mailed to each party or designated representative not more than 60 days from the date of filing the request for hearing unless the delay was caused by the appellant, in which case the time limit for delivery is extended by the number of days attributable to the appellant.
- C. In those cases where the Division must take additional action as a result of the decision, the action shall be taken immediately.
- D. All decisions in favor of the appellant apply retroactively to the date of the action being appealed or to the date the hearing officer specifically finds appropriate.
- E. The decision of the hearing officer shall become the final decision of the Department 15 days after it is issued unless a written petition for review to the Appeals Board or the AHCCCS Grievance and Appeals Division has been filed or the case has been removed to the Appeals Board for review.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2013 renumbered to R6-6-2012, new Section R6-6-2013 renumbered from R6-6-2014 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2014. Termination of Appeal

An appeal may be terminated as follows:

1. By voluntary withdrawal if the appellant submits a signed letter or on the record at any time before the decision is issued.
2. By default when a party fails to appear at a scheduled hearing and fails to request a rescheduled hearing within 15 days. An appeal will not be considered abandoned if the appellant provides notification up to the time of the hearing that he is unable, due to good cause, to appear and that he still wishes a hearing, or that the matter be considered on the record.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2014 renumbered to R6-6-2013, new Section R6-6-2014 renumbered from R6-6-2015 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2015. Review by the Appeals Board

- A. An appellant who is a non-DD/ALTCS client or non-ALTCS service provider may request review of an adverse hearing decision within 15 days after the decision is mailed or otherwise delivered to him.
 1. The request for review shall be in writing, signed and dated. It shall set forth the grounds for the request and may be filed personally or by mail through the Division's Office of Compliance and Review or the Office of Appeals to the Appeals Board.
 2. If the request for review is filed in a timely manner, the Division shall make no change in the case action until the Appeals Board decision is issued.

- B. The Department may request review by the Appeals Board before a hearing officer's decision becomes final. The request shall be in writing, signed by an Assistant Attorney General, and shall specifically state the error which forms the basis for the request for review.
- C. The Appeals Board may remove to itself any matter before a hearing officer before the issuance of a decision, or, if a decision has been issued, before the decision has become final. Upon removal, the Appeals Board shall notify all parties of the removal.
- D. In case of removal or review, the Appeals Board shall notify the Office of Appeals that it has accepted jurisdiction, and the Office of Appeals shall prepare a complete record of the case, including a transcript which shall be provided without cost to all parties upon request.
- E. A copy of the Appeals Board decision, together with a statement specifying the rights for further review, shall be distributed to each party.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2015 renumbered to R6-6-2014, new Section R6-6-2015 renumbered from R6-6-2016 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2016. Review by AHCCCS of ALTCS-related Matters

- A. A party may request review of an adverse hearing decision within 15 days after the decision is mailed or otherwise delivered.
- B. The request for review shall be in writing, signed, and dated. It should set forth the grounds for the request and may be filed personally or by mail through the Appellate Services Administration/Long-term Care to the AHCCCS Grievance and Appeals Division.
- C. A copy of the AHCCCS decision, together with a statement specifying the rights for further review, shall be distributed to each party.

Historical Note

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2016 renumbered to R6-6-2015, new Section R6-6-2016 renumbered from R6-6-2017 and amended effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 355, § 9. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; the Department was not required to hold public hearings; and the Attorney General has not certified these rules.

R6-6-2017. Renumbered**Historical Note**

Adopted effective August 29, 1991 (Supp. 91-3). Former Section R6-6-2017 renumbered to R6-6-2016 effective September, 30, 1993, under an exemption from A.R.S. Title 41, Chapter 6 (Supp. 93-3).

Department of Economic Security - Reserved

TITLE 6. ECONOMIC SECURITY

CHAPTER 7. RESERVED

TITLE 6. ECONOMIC SECURITY
CHAPTER 8. DEPARTMENT OF ECONOMIC SECURITY
AGING AND ADULT ADMINISTRATION

(Authority: A.R.S. § 41-1954 et seq.)

ARTICLE 1. GRIEVANCES AND HEARINGS

Article 1, consisting of Sections R6-8-101 through R6-8-117, adopted effective August 9, 1993 (Supp. 93-3).

Article 1, consisting of Sections R6-8-101 through R6-8-111, repealed effective August 9, 1993 (Supp. 93-3).

Article 1, consisting of Sections R6-8-101 through R6-8-111, adopted effective May 12, 1981 (Supp. 81-3).

Section

R6-8-101.	Definitions
R6-8-102.	Client Complaint Resolution Procedures
R6-8-103.	Right to Review
R6-8-104.	Administrative Review Procedures
R6-8-105.	Right to Appeal
R6-8-106.	Filing an Appeal
R6-8-107.	Service on Parties
R6-8-108.	Time
R6-8-109.	Scheduling and Notice of Hearing
R6-8-110.	Change of Hearing Officer
R6-8-111.	Failure of a Party to Appear
R6-8-112.	Subpoena of Witnesses and Documents
R6-8-113.	Conduct of Hearing
R6-8-114.	Hearing Decision
R6-8-115.	Termination of Appeal
R6-8-116.	Appeal to the Commissioner on Aging
R 6-8-117.	Review by the Appeals Board

ARTICLE 2. ADULT PROTECTIVE SERVICES

Article 2, consisting of Sections R6-8-201 through R6-8-210, adopted effective August 21, 1996 (Supp. 96-3).

Article 2, consisting of Sections R6-8-201 through R6-8-224, repealed effective August 21, 1996 (Supp. 96-3).

Article 2, consisting of Sections R6-8-201 through R6-8-224, recodified from A.A.C. R6-5-5601 through R6-5-5624 effective February 13, 1996 (Supp. 96-1).

Section

R6-8-201.	Definitions
R6-8-202.	Reporting Requirements for Adult Protective Services Cases
R6-8-203.	Eligibility for Services
R6-8-204.	Jurisdiction
R6-8-205.	Classification
R6-8-206.	Investigation
R6-8-207.	Case Planning
R6-8-208.	Refusal of Services by the Adult or Guardian
R6-8-209.	Case Closure
R6-8-210.	Confidentiality
R6-8-211.	Repealed
R6-8-212.	Repealed
R6-8-213.	Repealed
R6-8-214.	Repealed
R6-8-215.	Repealed
R6-8-216.	Repealed
R6-8-217.	Repealed
R6-8-218.	Repealed
R6-8-219.	Repealed
R6-8-220.	Repealed
R6-8-221.	Repealed
R6-8-222.	Repealed

R6-8-223. Repealed

R6-8-224. Repealed

ARTICLE 1. GRIEVANCES AND HEARINGS

R6-8-101. Definitions

- A. "Aging and Adult Administration" means the Aging and Adult Administration of the Division of Aging and Community Services, Department of Economic Security.
- B. "Area agency" means an organization designated by the Department to develop and administer the area plan for a system of services to older persons.
- C. "Area plan" means a plan for a comprehensive and coordinated system of services for older persons governing activities in a planning and service area.
- D. "Client" means any person who applies for or receives services from the Department or from a service provider under the Older Americans Act, 42 U.S.C. 3001 et seq. or the Arizona Older Americans Act - nonmedical Home and Community-Based Care Services, A.R.S. § 46-191 et seq.
- E. "Department" means the Department of Economic Security.
- F. "Grievant" means an organization listed in R6-8-103 which has filed a request for review with the Department.
- G. "Nutrition project" means the recipient of a subgrant or contract to provide nutrition services, other than the Area Agency.
- H. "Party" means any client or grievant appealing an action under R6-8-105 or the Department.
- I. "Program Administrator" means the Administrator of the Aging and Adult Administration.
- J. "Service provider" means a person or organization that is awarded a subgrant or contract from an area agency to provide services under the area plan.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-102. Client Complaint Resolution Procedures

- A. Each area agency shall have a written complaint resolution procedure which shall be made available to all clients.
- B. The complaint resolution procedure shall provide for an informal meeting to adjust the dispute and shall inform the client of the right to appeal if not satisfied with the area agency's decision.
- C. The area agency shall issue its decision within 30 days of the date the complaint is filed.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-103. Right to Review

An administrative review shall be available to:

1. Any area agency when the Department proposes to disapprove an area plan or plan amendment submitted by the area agency, or withdraw the area agency's designation;
2. Any applicant for designation as a planning and service area whose application is denied;
3. Any nutrition project for which the area agency proposes to cancel funding;

4. Any service provider whose application to provide services under an area plan is denied or whose subgrant or contract is terminated or not renewed.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-104. Administrative Review Procedures

- A. A request for administrative review must be filed in writing within 30 days of receipt of the notice of an adverse action. The request shall be signed by the grievant or an authorized representative of the grievant and directed to:

The Program Administrator
Aging and Adult Administration
Department of Economic Security
P.O. Box 6123
Phoenix, Arizona 85005
- B. The Program Administrator or the Administrator's designee shall schedule an administrative review conference to meet with the grievant or a representative of the grievant. At the administrative review conference, the grievant or the grievant's representative may review pertinent evidence on which the action was based.
- C. The Program Administrator shall issue a final decision within 60 days of the filing of the request for administrative review.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-105. Right to Appeal

- A. A client who is dissatisfied with the final decision issued by the area agency pursuant to R6-8-102 of this Article has the right to appeal that decision.
- B. A grievant who is dissatisfied with the final decision issued by the Program Administrator pursuant to R6-8-103 of this Article has the right to appeal that decision.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-106. Filing an Appeal

- A. Any client or grievant filing an appeal under these rules shall file a written request for hearing with the Program Administrator within 15 days after the mailing date of the area agency or Program Administrator's decision.
- B. A document shall be considered received by and filed with the Department:
 1. If transmitted via the United States Postal Service, on the date it is mailed. The mailing date shall be:
 - a. As shown by the postmark; or
 - b. As shown by the postage meter mark of the envelope in which it is received if there is no postmark; or
 - c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 2. On the date it is received by the Department, if transmitted by any means other than the United States Postal Service.
 3. The submission of document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or

misinformation, or to delay by the United States Postal Service.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-107. Service on Parties

Any document mailed by the Department shall be considered as having been served on the addressee on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-108. Time

Any reference within this Article to "days" shall mean calendar days unless otherwise specified. In computing any period of time, the date of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be counted, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-109. Scheduling and Notice of Hearing

- A. Hearings shall be held at those regularly established hearing locations most convenient to the parties or, at the discretion of the hearing officer, by telephone. The parties shall be given no less than 20 days' notice of hearing, except that the parties may waive the notice period or request a delay.
- B. The notice of hearing shall inform the parties of the date, time, and place of hearing, the name of the hearing officer, the issues involved, and the right to:
 1. Present the case in person or by telephone.
 2. Copy any documents to be used by the Department at the hearing at a reasonable time before the hearing.
 3. Request a change of hearing officer.
- C. If a party contacts the Office of Appeals promptly after receiving the notice of hearing and requests a postponement for good cause, the hearing officer shall grant a postponement for a reasonable period. Good cause exists when the circumstances causing the request are beyond the reasonable control of the requesting party and failure to grant the postponement would result in undue hardship to the requesting party.
- D. All scheduling is the responsibility of the Office of Appeals.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-110. Change of Hearing Officer

Not less than five days before the date set for the hearing, any party may file a written request for change of hearing officer and the matter shall immediately be transferred to another hearing officer. A hearing officer may be challenged for cause at any time before a decision becomes final. Except for good cause, not more than one change of hearing officer shall be granted to any one party.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-111. Failure of a Party to Appear

- A. If there is no appearance on behalf of a party at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or may make the decision on the record and on such evidence as may be presented at the scheduled hearing.
- B. If, within 15 days of the scheduled hearing, a party files a written request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. Notice shall be given of the time, place, and the purpose of any continued, reopened, or rescheduled hearing to all parties. Good cause shall be established upon proof that both the failure to appear and failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.

Historical Note

Adopted effective May 12, 1981 (Supp. 81-3). Section repealed, new Section adopted effective August 9, 1993 (Supp. 93-3).

R6-8-112. Subpoena of Witnesses and Documents

The hearing officer may subpoena any witnesses or documents requested by any party or upon the hearing officer's own motion.

- 1. The request shall be in writing and shall state the name and address of the witness and the nature of the expected testimony. The nature of the witness' testimony must be relevant to the issues of the hearing; otherwise the hearing officer may deny the request.
- 2. A request for subpoena of documents shall describe them in detail and provide the name and address of the custodian.
- 3. The request for the issuance of a subpoena shall be filed a minimum of five working days before the hearing.
- 4. The Department shall prepare and serve all subpoenas. Service of the subpoena shall be accomplished by certified mail, return receipt requested.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R6-8-113. Conduct of Hearing

- A. Hearings shall be conducted in an orderly and dignified manner. All hearings shall be open to the public, but the hearing officer conducting a hearing may close the hearing to other than parties to the extent necessary to protect the interests and rights of the parties.
- B. Hearings shall be opened, conducted, and closed by the hearing officer who shall rule on the admissibility of evidence and shall direct the order of proof. The hearing officer shall have the power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of any documents deemed necessary as evidence in connection with a hearing.
- C. Evidence not related to the issue shall not be allowed to become a part of the record.
- D. The hearing officer may, on the hearing officer's own motion or at the request of a party, exclude witnesses from the hearing room.
- E. The parties may present evidence, cross-examine witnesses, and present arguments.
- F. The parties to an appeal, with the consent of the hearing officer, may stipulate to facts involved in writing or on the record.

- G. At the conclusion of the hearing, the parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The hearing officer shall afford the parties an opportunity to present oral argument, or to file briefs, or both.

- H. A full and complete record shall be kept of all proceedings in connection with an appeal. The record shall be open for inspection by the parties. A transcript of the proceedings need not be made unless it is required for further proceedings,

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R6-8-114. Hearing Decision

- A. A hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Department rules governing the issue in dispute.
- B. The decision shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision, and the reasons therefor. A copy of the decision, together with an explanation of the appeal rights, shall be delivered or mailed to each party or designated representative not more than 60 days from the date of filing the request for hearing unless the delay was caused by the appellant, in which case the time limit for delivery is extended by the number of days attributable to the appellant.
- C. All decisions in favor of the appellant apply retroactively to the date of the action being appealed or to the date the hearing officer specifically finds appropriate.
- D. The decision of the hearing officer shall become the final decision of the Department 15 days after it is issued unless a written petition for review has been filed.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R6-8-115. Termination of Appeal

An appeal may be terminated as follows:

- 1. By voluntary withdrawal if the appellant submits a signed letter or on the record at any time before the decision is issued.
- 2. By default when a party fails to appear at a scheduled hearing and fails to request a rescheduled hearing within 15 days. An appeal will not be considered abandoned if the party provides notification up to the time of the hearing that he is unable, due to good cause, to appear and that he still wishes a hearing, or that the matter be considered on the record.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R6-8-116. Appeal to the Commissioner on Aging

- A. An appellant which has been denied designation as a planning and service area may appeal to the Commissioner on Aging, Department of Health and Human Services, within 30 days after the hearing officer's decision is mailed or otherwise delivered.
- B. The appeal shall be in writing, signed, and dated. It shall set forth the grounds for the request and may be filed personally or by mail to the Administrator, Aging and Adult Administration.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

R6-8-117. Review by the Appeals Board

- A. In all cases not covered by R6-8-116 of this Article, a party may petition for review of an adverse hearing decision within

15 days after the decision is mailed or otherwise delivered to the appellant. The petition for review shall be in writing, signed, and dated. It shall state the grounds for the request and may be filed personally or by mail to the Aging and Adult Administration or the Office of Appeals.

- B. The Appeals Board may remove to itself any matter before a hearing officer before the issuance of a decision or, if a decision has been issued, before the decision has become final. Upon removal, the Appeals Board shall notify the parties of the removal.
- C. In any case of removal or review, the Appeals Board shall notify the Office of Appeals that it has accepted jurisdiction, and the Office of Appeals shall prepare a complete record of the case, including a transcript, which shall be provided to the parties upon request.
- D. A copy of the Appeals Board decision, together with a statement specifying the rights to further review, shall be distributed to each party.

Historical Note

Adopted effective August 9, 1993 (Supp. 93-3).

ARTICLE 2. ADULT PROTECTIVE SERVICES

R6-8-201. Definitions

In addition to the definitions in A.R.S. § 46-451, the following definitions apply in this Article unless the context requires otherwise.

1. "Adult" means a person 18 years of age or older.
2. "Adult Protective Services" or "APS" means a program within the Department of Economic Security which provides protective services.
3. "Conservator" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5401 et seq.
4. "Danger to self" means:
 - a. Behavior which, as a result of a mental disorder, constitutes a danger of inflicting serious physical harm upon oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out; {or}
 - b. Behavior which, as a result of a mental disorder, will, without hospitalization, result in serious physical harm or serious illness to the person, except that this definition shall not include behavior which establishes only the condition of gravely disabled. A.R.S. § 36-501(5).
5. "Department" means the Department of Economic Security.
6. "Gravely disabled" means "a condition, evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm, or serious illness because he is unable to provide for his basic physical needs." A.R.S. § 36-501.
7. "Guardian" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5301 et seq.
8. "Information and referral" means the provision of information or referral to help a person who contacts or is reported to the Department, but is not alleged to be abused, neglected, or exploited, to locate and obtain help with a problem.
9. "Intake" means a duty performed by APS staff in receiving reports or providing information and referral.
10. "Jurisdiction" means the state of Arizona, exclusive of Native American Reservation land.
11. "Life-threatening situation" means a situation or circumstance that is likely to result in death if not corrected by medical or law enforcement intervention.
12. "Mental disorder" means "a substantial disorder of a person's emotional processes, thought, cognition, or memory. Mental disorder is distinguished from:
 - a. Conditions which are primarily those of drug abuse, alcoholism, or mental retardation, unless, in addition to 1 or more of these conditions, the person has a mental disorder;
 - b. The declining mental abilities that directly accompany impending death; and
 - c. Character and personality disorders characterized by lifelong and deeply ingrained anti-social behavior patterns, including sexual behaviors which are abnormal and prohibited by statute unless the behavior results from a mental disorder". A.R.S. § 36-501.
13. "Personally identifiable information" means any information that can indicate a person's identity including:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Fax number;
 - e. Photograph;
 - f. Fingerprints;
 - g. Physical description;
 - h. Place, address, or telephone number of employment;
 - i. Social security number;
 - j. Tribal affiliation;
 - k. Tribal identification number;
 - l. Driver's license number;
 - m. Birthdate;
 - n. APS worker narrative; or,
 - o. Any other identifier specific to an individual.
14. "Prepetition screening" means the "review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the application, and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services". A.R.S. § 36-501(30).
15. "Protected person" means "a minor or any other person for whom a conservator has been appointed or any other protective order has been made". A.R.S. § 14-5101(4).
16. "Protective services" means "a program of identifiable and specialized social services that may offer social services appropriate to resolve problems of abuse, exploitation or neglect of an incapacitated or vulnerable adult". A.R.S. § 46-451(A)(8).
17. "Record" means a collection of documents, including electronic documents, related to casework about a person reported to APS, or receiving APS services.
18. "Report" means a communication which alleges abuse, neglect, or exploitation of an incapacitated or vulnerable adult, or information regarding an adult who may be in need of protective services.
19. "Special visitation warrant" means an order of the Superior court that is issued as prescribed in A.R.S. § 14-5310.01 and which permits an APS worker, accompanied by a peace officer, to visit the residence of an adult believed to be incapacitated and abused, neglected, or exploited.

20. "Work day" means 8 a.m. to 5 p.m., Monday through Friday, excluding Arizona state holidays.

Historical Note

R6-8-201 recodified from A.A.C. R6-5-5601 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-201 repealed, new Section R6-8-201 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-202. Reporting Requirements for Adult Protective Service Cases

Upon receipt of a report, as prescribed in A.R.S. § 46-454, APS shall ask the reporting source to provide:

1. All information as prescribed in A.R.S. § 46-454(C); and,
2. As much information regarding the allegedly incapacitated, or vulnerable adult as is available to the source including:
 - a. The names and addresses of those involved and their roles;
 - b. The length of time the situation has been ongoing;
 - c. The client's functional level;
 - d. Whether other agencies are providing assistance and, if so, what type of assistance; and,
 - e. Any other information that may assist the APS worker in the investigation.

Historical Note

R6-8-202 recodified from A.A.C. R6-5-5602 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-202 repealed, new Section R6-8-202 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-203. Eligibility for Services

To be eligible for APS services, a person shall be:

1. Age 18 years or older;
2. Incapacitated or vulnerable;
3. The victim or alleged victim of abuse, neglect, or exploitation; and,
4. Within the jurisdiction.

Historical Note

R6-8-203 recodified from A.A.C. R6-5-5603 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-203 repealed, new Section R6-8-203 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-204. Jurisdiction

- A. An APS worker shall not investigate reports of events which occurred in another state, foreign country, or Indian reservation.
- B. When the Department receives a report of alleged abuse, neglect, or exploitation of a person who is outside of the jurisdiction, the Department shall make a report to the appropriate state, international, or tribal government or social services agency.

Historical Note

R6-8-204 recodified from A.A.C. R6-5-5604 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-204 repealed, new Section R6-8-204 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-205. Classification

At intake, an APS worker shall classify the incoming communication into 1 of the following 3 categories:

1. Information and referral;
2. Report accepted for evaluation and investigation; or,
3. Report accepted for evaluation, but not investigation.

Historical Note

R6-8-205 recodified from A.A.C. R6-5-5605 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-205 repealed, new Section R6-8-205 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-206. Investigation

A. Reports Accepted for Evaluation and Investigation:

1. In alleged life-threatening situations, the APS worker shall refer the reporting source or initiate contact with:
 - a. Local law enforcement authorities,
 - b. Paramedics, or
 - c. An emergency medical team.
2. When an APS worker investigates a situation that may present a danger to the APS worker or client, the APS worker may ask law enforcement authorities to participate in the investigation either at the time of the report or upon arrival at the scene.
3. An APS worker shall visit a person who may be in need of adult protective services within 2 work days after receipt of a report.
4. The APS worker shall investigate, determine, and document in the record whether:
 - a. The allegations are substantiated,
 - b. The client needs services,
 - c. The client will accept services,
 - d. The client appears able to provide informed consent for the provision of services,
 - e. The Department needs to request an outside mental health assessment, or
 - f. The Department needs to file for a special visitation warrant.
5. To make the assessment described in subsection (A)(4), the APS worker shall consider all relevant circumstances regarding the client, which may include the following:
 - a. The client's appearance,
 - b. Identifying information,
 - c. Financial information,
 - d. Existing protective arrangements,
 - e. Physical status including any disabilities,
 - f. Medications,
 - g. Medical history,
 - h. Mental status,
 - i. Functional status,
 - j. Behavioral status,
 - k. Social environment,
 - l. Physical environment,
 - m. Nutrition,
 - n. Services provided by other resources,
 - o. The client's perception of the situation, and
 - p. The perception of the client's situation by:
 - i. Family,
 - ii. Neighbors,
 - iii. Caregivers,
 - iv. Friends, or
 - v. Other concerned parties.

B. Reports Accepted for Evaluation but not Investigation. APS may classify a report as not accepted for investigation because of:

1. Insufficient information,
2. Sufficient involvement of other resources,
3. The situation is known to APS and the report does not provide additional information, or
4. The client's need is for placement into a care facility only.

Historical Note

R6-8-206 recodified from A.A.C. R6-5-5606 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-206 repealed, new Section R6-8-206 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-207. Case Planning

- A.** The APS worker shall maintain a case plan for clients in need of protective services.
1. The case plan shall contain:
 - a. Specific goals and objectives,
 - b. Outline of casework activities for achieving objectives, and
 - c. Time frames for achieving objectives.
- B.** An APS worker shall:
1. Involve the client in identifying and understanding the client's needs and planning of services to address those needs, unless the client's mental or physical condition prevents the client from participating in planning;
 2. Locate persons who can help the client achieve planned goals;
 3. Regularly assess the client's progress towards the goals;
 4. Revise goals to meet the changing needs of the client; and,
 5. Coordinate with other agencies to address the client's needs.

Historical Note

R6-8-207 recodified from A.A.C. R6-5-5607 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-207 repealed, new Section R6-8-207 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-208. Refusal of Services by the Adult or Guardian

- A.** An adult may refuse adult protective services.
- B.** If an APS worker believes that a client in need of services is a danger to self or gravely disabled due to a mental disorder, as prescribed in A.R.S. § 36-501 or in need of a guardianship or conservatorship, the APS worker may obtain further assessment of the client's physical or mental health in order to take action to protect the client.
1. The action may include:
 - a. Seeking a special visitation warrant if the APS worker is denied access to a client,
 - b. Petitioning for appointment of a conservator or guardian, or
 - c. Applying for prepetition screening.
- C.** A guardian may refuse services on behalf of a protected person.
- D.** If an APS worker finds that a guardian is not acting in the best interest of a protected person, the APS worker may petition the court to review the guardianship. The petition shall include the specific reasons that the APS worker believes that the guardian is not acting in the best interest of the ward.

Historical Note

R6-8-208 recodified from A.A.C. R6-5-5608 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-208 repealed, new Section R6-8-208 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-209. Case Closure

APS may close a case when:

1. Allegations of abuse, neglect, or exploitation are not substantiated;
2. The abuse, neglect, or exploitation is resolved by the provision of services or other methods;

3. The client's capacity is not in question, and the client is refusing APS involvement or is not accepting viable remedies for prevention of risk;
4. The client is admitted to care in a state institution or other care facility;
5. The client has moved outside the jurisdiction;
6. The client dies;
7. Contact with the client is lost and 3 attempts to reestablish contact have failed; or,
8. Guardianship or conservatorship is obtained.

Historical Note

R6-8-209 recodified from A.A.C. R6-5-5609 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-209 repealed, new Section R6-8-209 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-210. Confidentiality

- A.** All personally identifiable information is confidential as prescribed in A.R.S. § 41-1959. A person who is entitled to obtain information pursuant to A.R.S. § 41-1959(C) and who wishes to obtain information shall comply with the requirements of this Section.
- B.** The requester shall send a written request to the APS program manager for the office where the requester believes the records are located; the request shall include the following information:
1. The name, address, and telephone number of the person, organization, or entity requesting information;
 2. If the request is on behalf of an organization or entity, the name and title of the person signing the request;
 3. The purpose for which the information is sought;
 4. The Section of A.R.S. § 41-1959(C) authorizing the person to obtain the information;
 5. The name of the client who is the subject of the APS report, with as much of the following information as the requester can provide:
 - a. Other possible spellings, names, or aliases of the client;
 - b. The approximate date of the APS report; and,
 - c. Any other data that the requester believes will be likely to assist the Department in identifying the information requested.
- C.** Upon receipt of a request for information, the Department shall determine if the request is complete. If the request is not complete, the Department shall contact the requester for the missing information.
- D.** The receipt date is the day that the receiving office designated on the request actually receives the complete request, as prescribed in subsection (B).
- E.** The Department shall respond to the requester within 15 work days.
- F.** The person releasing the information shall document in the case record:
1. The name of the person to whom the information was released,
 2. The date and method of release, and
 3. A description of the information released.

Historical Note

R6-8-210 recodified from A.A.C. R6-5-5610 effective February 13, 1996 (Supp. 96-1). Former Section R6-8-210 repealed, new Section R6-8-210 adopted effective August 21, 1996 (Supp. 96-3).

R6-8-211. Repealed**Historical Note**

R6-8-211 recodified from A.A.C. R6-5-5611 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-212. Repealed**Historical Note**

R6-8-212 recodified from A.A.C. R6-5-5612 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-213. Repealed**Historical Note**

R6-8-213 recodified from A.A.C. R6-5-5613 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-214. Repealed**Historical Note**

R6-8-214 recodified from A.A.C. R6-5-5614 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-215. Repealed**Historical Note**

R6-8-215 recodified from A.A.C. R6-5-5615 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-216. Repealed**Historical Note**

R6-8-216 recodified from A.A.C. R6-5-5616 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-217. Repealed**Historical Note**

R6-8-217 recodified from A.A.C. R6-5-5617 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-218. Repealed**Historical Note**

Adopted effective July 6, 1976 (Supp. 76-4). Former Section R6-5-5617 renumbered as Section R6-5-5618 effective January 13, 1977 (Supp. 77-1). R6-8-218 recodified from A.A.C. R6-5-5618 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-219. Repealed**Historical Note**

R6-8-219 recodified from A.A.C. R6-5-5619 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-220. Repealed**Historical Note**

R6-8-220 recodified from A.A.C. R6-5-5620 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-221. Repealed**Historical Note**

R6-8-221 recodified from A.A.C. R6-5-5621 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-222. Repealed**Historical Note**

R6-8-222 recodified from A.A.C. R6-5-5622 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-223. Repealed**Historical Note**

R6-8-223 recodified from A.A.C. R6-5-5623 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

R6-8-224. Repealed**Historical Note**

R6-8-224 recodified from A.A.C. R6-5-5624 effective February 13, 1996 (Supp. 96-1). Repealed effective August 21, 1996 (Supp. 96-3).

Department of Economic Security - Reserved

TITLE 6. ECONOMIC SECURITY

CHAPTER 9. RESERVED

TITLE 6. ECONOMIC SECURITY**CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY
THE JOBS PROGRAM**

(Authority: A.R.S. §§ 41-1954(1)(b) and 41-1954(3))

Editor's Note: Sections of this Chapter were repealed and adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Under Laws 1997, Ch. 300, § 74(B), the Department is required to institute the formal rulemaking process on these Sections on or before December 31, 1997. Because these rules are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

ARTICLE 1. JOBS: GENERAL PROVISIONS

Article 1, consisting of Sections R6-10-101 thru R6-10-121, repealed; new Sections R6-10-101 thru R6-10-125 adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Section

- R6-10-101. Definitions
- R6-10-102. Work Requirement
- R6-10-103. Tribal JOBS
- R6-10-104. Selection for Participation; Notification
- R6-10-105. Orientation and Initial Appointment
- R6-10-106. Temporarily Deferred Determinations
- R6-10-107. Self-assessment
- R6-10-108. Employment Plan
- R6-10-109. Participation in Primary Activities
- R6-10-110. Participation Deemed to Be Meeting the Work Requirement
- R6-10-111. Participation in Secondary Activities
- R6-10-112. Job Search and Job Readiness Activities
- R6-10-113. OJT
- R6-10-114. Work Experience
- R6-10-115. Community Service Programs
- R6-10-116. Vocational Educational Training
- R6-10-117. High School, GED Preparation, and Education Directly Related to Employment
- R6-10-118. Transportation-related Expenses

- R6-10-119. Support Services
- R6-10-120. Issue Resolution Procedures: Issues Involving Participants
- R6-10-121. All Families Except TPEP: Failure to Participate; Sanctions
- R6-10-122. Good Cause Exceptions
- R6-10-123. TPEP: Failure to Participate; Withholding
- R6-10-124. Subsidized Employment - JOBSTART
- R6-10-125. Employer Participation - JOBSTART

ARTICLE 2. REPEALED

Article 2, consisting of Sections R6-10-201 thru R6-10-220, repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Article 2, consisting of Sections R6-10-201 thru R6-10-220, adopted effective December 11, 1995 (Supp. 95-4).

ARTICLE 3. GRIEVANCE PROCEDURES

Article 3, consisting of Sections R6-10-301 thru R6-10-304, adopted effective December 11, 1995 (Supp. 95-4).

Section

- R6-10-301. Definitions
- R6-10-302. Grievance - Regular Employees; Employer
- R6-10-303. Grievance Process
- R6-10-304. Further Appeal

ARTICLE 1. JOBS: GENERAL PROVISIONS

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-101. Definitions

The definitions in A.R.S. § 46-101 and the following definitions apply to this Chapter:

1. "AHCCCS" means the Arizona Health Care Cost Containment System.
2. "All families" means all families, except TPEP, receiving cash assistance payments.
3. "Calendar week" means 7 consecutive days beginning on Saturday.
4. "Calendar year" means a 12-month period beginning January 1 and ending December 31.
5. "Cash assistance program" means the Temporary Assistance for Needy Families program established by Public Law 104-193, Section 407 (1996).
6. "Community service programs" means unpaid work activities which provide a service to the community or an organization.
7. "DES" means the Arizona Department of Economic Security, which is sometimes referred to as "the Department."
8. "Education directly related to employment" means remedial education and English for Speakers of Other Languages (ESOL) for individuals who have not attained a high school diploma or GED.
9. "Employment plan" means the agreement described in R6-10-107, between the participant and the Program, describing the steps and services needed to transition a client to economic independence.
10. "FAA" means the Family Assistance Administration which is the administrative unit within the DES Division of Benefits and Medical Eligibility responsible for providing cash assistance to eligible persons.
11. "Fails to participate" or "failure to participate" means that a participant has not met JOBS requirements for orientation, assessment, employment plan development, compliance with the terms of the participant's employment plan, or participation in work activities.
12. "Full-time employment" means employment that is 40 hours per week or, if less, is regarded as full-time for a specific industry.
13. "GED" means general equivalency degree which is a certificate awarded upon completion of a series of 5 tests that demonstrate high school skills equivalency.
14. "Job readiness" means a structured employment preparation program which includes life skills, employment, and job retention skills.
15. "JOBS" means the administrative unit within the DES Division of Employment and Rehabilitation Services which is responsible for administration of the JOBS Program.
16. "Job search" means a structured activity in which participants are required to actively seek employment by identifying employment opportunities, applying for employment, and participating in employment interviews.
17. "Job skills training" means training opportunities which enable a participant to become proficient in an occupation or skill necessary to meet the participant's employment goal.
18. "JOBSTART" means the state's subsidized work activity in the public and private sectors.
19. "JOBSTART employment" means the subsidized employment for which participants are hired.
20. "Licensed physician" means:
 - a. Medical doctors,
 - b. Doctors of osteopathy,
 - c. Doctors of naturopathic medicine,
 - d. Chiropractors,
 - e. Psychiatrists, or
 - f. Board-certified psychologists.
21. "Making satisfactory progress" means that a participant is meeting, on a periodic basis, a consistent standard of progress based upon standards established by the institution or program, and approved by JOBS, in which the participant is enrolled for educational or training activities.
22. "OJT" means on-the-job training which is a paid training opportunity generally provided at a worksite for a specified period.
23. "Participant" means a cash assistance recipient who is registered with JOBS to participate in the Program.
24. "Primary activities" means work activities which count toward the work requirement.
25. "Program" means the JOBS Program, as authorized by A.R.S. § 46-299.
26. "Recipient" means an individual receiving cash assistance payments through the cash assistance program administered by the FAA.
27. "Regular employee" means an unsubsidized individual currently employed by an employer.
28. "Sanction" means a reduction or termination of cash assistance, for all families, except TPEP, who fail to participate or comply with Program requirements without good cause.
29. "Satisfactory attendance in high school or GED activities" means that a participant who has not completed high school or received a GED is attending high school or GED activities and meeting attendance requirements established by the school or GED program.
30. "Satisfactorily participates in education directly related to employment" means that a participant is meeting, on a periodic basis, a consistent standard of progress based upon standards established by the educational institution or program.
31. "Secondary activities" means work activities that count toward the work requirement only after meeting the required hours in primary activities.
32. "Subsidized employment" means employment in a public or private sector organization which receives a JOBSTART subsidy to offset the cost of wages (and possibly other employer-paid benefits) of an employee.
33. "Support services" means services provided to JOBS participants which enable them to participate in work activities, to accept and maintain employment, and to successfully make the transition to employment.
34. "Teen custodial parent" means a parent age 13 through 19 who is caring for the parent's child.
35. "TPEP" means the Two-Parent Employment Program for cash assistance for 2-parent families in which both par-

- ents are able to work and the primary wage earning parent is unemployed.
36. "Transportation-related expenses" means an allowance for transportation expenses that may be incurred by a participant as a result of participating in JOBS.
 37. "Unaffordable" child care means that child care is not affordable to a family because the cost of care is more than what DES will pay.
 38. "Unavailable" child care means that:
 - a. Child care providers are located more than 1 1/2 hours 1 way in total travel time from the recipient's home to the child care provider, and to work, after exploring all modes of transportation, including walking;
 - b. Child care providers do not have available slots or vacancies;
 - c. Child care providers cannot provide services to a disabled or handicapped child with special needs;
 - d. Child care providers related to the child are unavailable or unwilling to provide care;
 - e. Child care is available through a non-relative provider, as defined in A.R.S. § 46-801(11) but the provider is unwilling to apply for DES certification.
 39. "Unsubsidized employment" means all paid employment in the public or private sector except JOBSTART or OJT.
 40. "Unsuitable" child care means that child care is available through a relative provider, but the recipient declares in writing that the provider is inappropriate based on factors, such as, that the relative provider:
 - a. Has a history of child neglect or abuse;
 - b. Is experiencing domestic violence;
 - c. Has a history of serious crime;
 - d. Is a drug abuser;
 - e. Has an emotional, mental, or physical condition which prevents the relative from providing safe care; or
 - f. Resides in a home which is unsafe for children.
 41. "Vocational educational training" means training directly related to a career or occupation and which results in a degree or certificate.
 42. "Withholding" means withholding of semi-monthly TPEP cash assistance checks, for TPEP parents who fail to participate or comply with Program requirements without good cause.
 43. "Work activities" means activities that are countable toward the federal work participation rate as prescribed in Public Laws 104-193, Section 407 (1996):
 - (a) Unsubsidized employment;
 - (b) Subsidized private or public employment;
 - (c) Work experience;
 - (d) On-the-job training;
 - (e) Job search and job readiness assistance;
 - (f) Community service programs;
 - (g) Vocational educational training;
 - (h) Job skills training directly related to employment;
 - (i) Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
 - (j) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate. A.R.S. § 46-101(23).
 44. "Workday" means Monday through Friday, excluding Arizona state holidays.
 45. "Work experience" means unpaid work in the public or private sector that helps a participant establish a good work record and develop good work habits and skills, and provides opportunities for the participant to transition into paid employment.
 46. "Work requirement" means the minimum number of hours required for all families and 2-parent families to participate in work activities as a condition of eligibility for cash assistance, as prescribed in Public Law 104-193, Section 407 (1996), not including any later amendments or editions, which is incorporated by reference in this rule. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 W. Jefferson, Phoenix, Arizona and in the office of the Secretary of State, Public Service Department, 1700 W. Washington, Phoenix, Arizona.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: *The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

R6-10-102. Work Requirement

- A. As a condition of eligibility for cash assistance, a recipient shall participate in work activities unless the recipient satisfies subsection (B).
- B. JOBS shall not require the following recipients to participate in work activities:
 1. The recipient is already meeting the work requirement.
 2. The recipient is a dependent child under age 16 or is age 16 through 18 and attending school.
 3. The recipient is temporarily deferred from the work requirement, as prescribed in R6-10-106.
- C. JOBS shall assign all recipients, other than those listed in subsection (B), to work activities for at least the minimum number of hours per week required to meet the work requirement.
- D. JOBS may require recipients, who are required to participate and have not been temporarily deferred, to participate for at least 5 hours more per week in work activities than the minimum number of hours required to meet the work requirement.
- E. The Department shall impose a sanction, as provided at R6-10-121, or a withholding, as provided at R6-10-123, if a recipient who is required to participate fails to participate in work activities without good cause, as defined in R6-10-122.
- F. JOBS may permit a recipient who is already meeting the work requirement to volunteer to participate in JOBS.
 1. A volunteer shall receive JOBS services on a 1st-come, 1st-served basis, to the extent that resources permit, except that volunteers nearest to reaching the 24-month time limit for cash assistance shall receive priority.
 2. JOBS shall not sanction a volunteer who fails to participate without good cause. However, a volunteer who fails to participate without good cause shall lose priority status for participation in the Program. Good cause, for the pur-

pose of this subsection, means 1 of the circumstances described in R6-10-122.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-103. Tribal JOBS

JOBS shall not serve a person who is eligible to receive assistance through a tribal cash assistance program or services through a Tribal JOBS program.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-104. Selection for Participation; Notification

- A. JOBS may select a recipient, other than a TPEP parent, for services according to program priorities which are based on serving those at-risk of losing cash assistance due to time limits or becoming long-term welfare dependents.
- B. JOBS shall consider the following factors when determining selection priorities:
 1. The number of months a recipient has received cash assistance,
 2. Whether the recipient is a teen-custodial parent, and
 3. Sanction status.
- C. JOBS shall notify a recipient, in writing or in person, who has been selected to participate in the Program of the requirement to attend an initial interview appointment. The notice shall include:
 1. The date and time of the appointment, and the address of the JOBS office where the interview will be held;
 2. The procedure for rescheduling the initial interview appointment; and
 3. The penalty for failing to comply with the initial interview appointment requirements as prescribed in R6-10-121.

- D. JOBS shall begin services to a sanctioned parent or a TPEP parent at the time the parent reports to the JOBS office.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-105. Orientation and Initial Appointment

- A. The Department shall provide a program orientation to applicants prior to a cash assistance determination.
- B. At the initial appointment, JOBS shall:
 1. Register the recipient in the Program;
 2. Ensure the recipient has completed a self-assessment as prescribed by the Program;
 3. Explain to the recipient the rights and responsibilities of the recipient, the Program, and the child care program;
 4. Complete an employment plan with the recipient that considers the recipient's background and skills.
- C. JOBS shall permit a recipient to reschedule an initial interview appointment only if the interview process can be completed no later than 10 days from the date of the original interview appointment date.
- D. If a recipient does not complete the initial interview process within the timeframe prescribed in subsection (C), the Department shall sanction the recipient as prescribed in R6-10-121.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-106. Temporarily Deferred Determinations

- A. JOBS shall determine whether to temporarily defer a participant from participation in work activities.
- B. JOBS shall defer a recipient, except a TPEP parent, if the recipient falls into 1 of the categories listed in this subsection:
 1. A licensed physician determines that the participant is mentally or physically incapable of engaging in work activities.

2. The recipient is a victim of domestic violence whose participation in JOBS may cause an immediate threat to the safety of the victim or the victim's child.
 - a. JOBS shall defer a victim of domestic violence for the period of time the recipient needs to make changes in circumstances that will enable the recipient to safely participate in work activities.
 - b. The deferral shall not exceed 6 months.
 3. The recipient needs to be present in the home on a continuous basis to care for a member of the family who has a physical or mental disability, as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.
 4. The recipient is a teen custodial parent with a child under 12 weeks of age.
 5. The recipient is a parent, relative, or caretaker who is personally caring for a child under the age of 1 year, unless the recipient is a teen parent who does not have a high school diploma or GED.
- C. JOBS shall temporarily defer only 1 parent in a TPEP family. JOBS shall temporarily defer a TPEP parent, if the TPEP parent:
1. Is personally caring for the TPEP parent's child who is under the age of 1 year, unless the TPEP parent is a teen custodial parent who does not have a high school diploma or GED.
 2. Is a teen custodial parent with a child under 12 weeks of age.
 3. Is personally caring for a member of the family, who is not the other TPEP parent, who has a physical or mental disability as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.
 4. Has an illness of a temporary nature, as verified by a licensed physician.
- D. JOBS shall request verification from the recipient to substantiate the recipient's claim of inability to participate in work activities due to a circumstance established in this Section.
- E. JOBS shall determine the length of time a recipient is temporarily deferred based on verification provided by the recipient.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-107. Self-assessment

- A. A participant shall have a self-assessment of employability.
- B. A participant shall complete, or assist in completing, a self-assessment as prescribed by the Program.
- C. The self-assessment shall include the participant's:
 1. Education and employment history;
 2. Skills, talents, and interests; and

3. Family and other circumstances which may impact the participant's employability.

- D. JOBS shall consider the self-assessment factors in the employment planning process

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-108. Employment Plan

- A. JOBS and the recipient shall complete an employment plan for the recipient that incorporates work activities to ensure that work requirements are met and to ensure that the recipient transitions to employment at the earliest opportunity. JOBS shall include the following factors on the employment plan:
 1. Employment goals,
 2. Work activities,
 3. Activity begin and end dates,
 4. Support services,
 5. Signatures of the recipient and the JOBS Program Specialist assigned to oversee provision of services to the recipient.
- B. The JOBS Program specialist, in consultation with the recipient, may revise the employment plan as needed to ensure the participant continues to advance toward the employment goal.

Historical Note

Adopted effective Jan 10, 1977 (Supp.77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-109. Participation in Primary Activities

- A. JOBS shall assign a participant, unless temporarily deferred as provided in R6-10-106, to primary activities that are most appropriate to the participant's employment plan as described in R6-10-108.
- B. JOBS shall assign participants to primary activities; unsubsidized employment is the 1st priority for all participants.
- C. The following are primary activities:

1. Job search and job readiness assistance for up to 6 weeks per calendar year;
 2. Unsubsidized employment;
 3. Subsidized employment - JOBSTART;
 4. OJT;
 5. Work experience;
 6. Community service programs;
 7. Vocational educational training for up to 1 year;
 8. Satisfactory attendance in high school or GED preparation classes for single teen custodial parents who are heads of household and have not obtained a high school diploma or GED;
 9. Education directly related to employment for teen custodial parents who are heads of household and have not obtained a high school diploma or GED, if actual participation hours equal at least the minimum hours required in primary activities.
- E.** The Department shall require TPEP parents to participate for a minimum of 3 days in work activities before the Department authorizes issuance of the initial TPEP cash assistance payment.
- G.** The Department shall require sanctioned individuals, who wish to reestablish their eligibility for cash assistance, to re comply with JOBS requirements by participating for a minimum of 3 days in work activities before the Department authorizes issuance of the cash assistance payment.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-110. Participation Deemed to be Meeting the Work Requirement

- A.** JOBS shall deem the following participants to be meeting the work requirement.
1. A parent who is participating in work activities for at least the minimum average number of hours per week as described at R6-10-102(C).
 2. A parent, with a child under age 6, who participates for at least 20 hours per week in primary activities, except that only 1 parent in a TPEP family can meet the federal work requirement in this manner.
 3. A single, teen custodial parent under age 20 who:
 - a. Is head of household;
 - b. Has not obtained a high school diploma or GED; and
 - c. Maintains satisfactory attendance in high school or GED activities;
 4. A single, teen custodial parent under age 20 who:
 - a. Is head of household;
 - b. Has not obtained a high school diploma or GED; and
 - c. Satisfactorily participates in education directly related to employment for at least the minimum number of hours required in primary activities.

- B.** A participant who falls in 1 of the categories shown in subsection (A), who is deemed to be meeting the work requirement, may participate in additional work activities beyond those deemed to be meeting the work requirement.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-111. Participation in Secondary Activities

- A.** JOBS may assign a participant to secondary activities that are appropriate to the participant's employment plan only after the participant meets required participation in primary activities.
- B.** The following are secondary activities:
1. Job search and job readiness activities after the maximum 6 weeks per year allowable as a primary activity;
 2. Job skills training;
 3. High school or GED preparation for an individual (other than a single, teen custodial head parent who is head of household) who has not attained a high school diploma or GED certificate; and
 4. Education directly related to employment for an individual (other than a single, teen custodial parent who is head of household) who has not attained a high school diploma or GED certificate.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Amended effective December 11, 1995 (Supp. 95-4). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-112. Job Search and Job Readiness Activities

- A.** JOBS may assign a participant to job search and job readiness activities as a primary activity in accordance with Public Law 104-193, Section 407 (1996).
- B.** A participant assigned to job search and job readiness activities as a primary activity shall participate in job search and job readiness activities for at least the minimum participation requirement within a calendar week.

- C. JOBS shall count only 1 calendar week of job search and job readiness activities in which a participant participates for only 3 or 4 days in any week.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-113. OJT

- A. JOBS may assign a participant to OJT when other work activities have not resulted in employment and OJT is consistent with the participant's employment plan.
- B. JOBS shall approve OJT worksites and assignments which:
1. Are designed to improve the participant's chances for employment, and
 2. Provide compensation in accordance with applicable wage laws.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-114. Work Experience

- A. JOBS may assign a participant to work experience to improve the participant's employability by providing work experience, or to meet participation requirements.
- B. JOBS may assign a participant to work experience that is consistent with the participant's employment goals set forth in the participant's employment plan and shall consider the participant's prior training and experience when making an assignment to work experience.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-115. Community Service Programs

- A. JOBS may assign a participant to community service programs in conjunction with other primary activities to meet participation requirements.
- B. JOBS may assign a participant to community service programs to establish good work habits when the participant is unlikely to meet participation requirements by participating in other primary activities.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-116. Vocational Educational Training

- A. JOBS may assign a participant to vocational educational training, for up to a maximum of 1 year, when other work activities have not resulted in employment and vocational educational training is consistent with the participant's employment plan.
- B. JOBS shall use the following criteria to determine if a participant may be assigned to, or remain in, vocational educational training:
1. The participant:
 - a. Lacks a self-supporting skill for available jobs in the participant's geographical area;
 - b. Will attend at least half-time, as defined by the institution, an educational or training facility which is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment; and
 - c. Remains in good standing with the educational or training institution and makes satisfactory progress as defined by the institution.
 2. The education or training activities shall result in:
 - a. The attainment of skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; and
 - b. An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.

- C. JOBS may approve, as vocational educational training, the educational or training activities of an individual who is already enrolled in education or vocational or technical training at the time the individual is registered in the Program.
- D. JOBS shall use the following criteria to determine if the educational or training activities of an individual already enrolled in education or training may be approved:
1. The individual:
 - a. Is attending at least half-time, as defined by the institution, an educational or training facility which is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment;
 - b. Is in good standing with the educational or training institution and is making satisfactory progress, as defined by the institution; and
 - c. Is within 2 years of completing the program of study.
 2. The education or training activities shall result in:
 - a. The attainment of skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; and
 - b. An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
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R6-10-117. High School, GED Preparation, and Education Directly Related to Employment

- A. JOBS may assign a teen custodial parent, who has not obtained a high school diploma or GED, to participate in educational activities.
- B. JOBS may assign a single, teen custodial parent under age 20, who is head of household and has not obtained a high school diploma or GED, to education directly related to employment.
- C. JOBS may assign an adult participant, who does not have a high school diploma or GED, to GED activities or education directly related to employment only as a secondary activity.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was repealed and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-118. Transportation-related Expenses

- A. JOBS shall pay a participant, on a weekly basis, a transportation allowance of \$5.00 per day for each day in which the participant participates in the Program and incurs a transportation expense as a result of such participation.
- B. Except for participants in subsidized employment, JOBS shall not pay transportation-related expenses past the participant's 1st 4 weeks of employment or receipt of the participant's 1st paycheck, whichever comes 1st.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-119. Support Services

- A. The Department shall provide a participant with paid child care to enable participation in the Program.
- B. JOBS may provide a participant with other support services, through payments to DES-approved service providers, to enable participation in the Program.
- C. Support services include:
 1. Health-related services which are not covered by AHC-CCS and which are necessary to enable a participant to become employed or to make a determination of employability including:
 - a. Medical examinations and tests,
 - b. Eyeglasses,
 - c. Dental services,
 - d. Mental health counseling, and
 - e. Other similar services.
 2. Other support services including:
 - a. Clothing;
 - b. Licenses;
 - c. Tools, equipment, and specialized garments used in specific occupations such as uniforms, hard hats, or other similar garments.
 3. Substance abuse rehabilitation services;
 4. Short-term crisis services for housing assistance and utility deposit assistance.
- D. During the 1st 30 calendar days of employment, JOBS may provide support services, which includes those listed in subsection (C).

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-120. Issue Resolution Procedures: Issues Involving Participants

- A. When an issue arises between a participant and JOBS, JOBS shall 1st attempt to resolve the issue informally through issue resolution proceedings.
- B. A participant or JOBS may request issue resolution proceedings by making a written request to JOBS describing the nature of the problem. If a participant makes an oral request, JOBS shall help the participant put the request in writing by completing the JOBS notice used for that purpose.
- C. JOBS shall begin issue resolution procedures within 2 working days of the date of a participant's written request, or the date of a written notice from JOBS to the participant.
- D. Issue resolution procedures shall terminate after 45 days, or upon JOBS' determination that the issue cannot be resolved, whichever comes 1st.
- E. A participant shall continue to participate in the Program while issue resolution proceedings are pending. If a participant fails to participate, JOBS shall direct a sanction, as provided at R6-10-121, or withholding as provided at R6-10-123.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-121. All Families Except TPEP: Failure to Participate; Sanctions

- A. If an individual required to participate fails to participate at the JOBS initial interview, as outlined at R6-10-105, the Department shall sanction the individual.
- B. JOBS shall send the individual written notification explaining:
 1. When and how the individual failed to comply,
 2. The consequences of the non-compliance,

3. The month in which the Department shall impose the sanction, and
4. How the individual can recompile.
- C. If a participant required to participate subsequently fails to participate or comply with Program requirements, or is avoiding or limiting employment, JOBS shall determine whether good cause exists as described in R6-10-122.
- D. When JOBS determines that a participant required to participate fails to participate without good cause as described in R6-10-122, the Department shall sanction the participant.
- E. JOBS shall send the participant written notification explaining:
 1. When and how the participant failed to comply,
 2. The consequences of the non-compliance,
 3. The month in which the Department shall impose the sanction, and
 4. How the participant can recompile.
- F. At the 3rd and subsequent sanctions, JOBS shall close the participant's JOBS case.
- G. A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department sanction of cash assistance.
- H. A participant who wishes to appeal a sanction of cash assistance shall file a written request with the Department following the procedures in A.A.C. R6-12-1002.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Section repealed, new Section adopted effective June 6, 1995 (Supp. 95-2). Section repealed; new Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-122. Good Cause Exceptions

- A. Good cause reasons are those deemed acceptable by JOBS which prevent a participant from participating in work activities, complying with JOBS requirements, or accepting employment. The following circumstances shall constitute good cause:
 1. The participant had a verified illness;
 2. Either the participant or dependent child had a verified appointment, which could not be rescheduled, for a court-ordered appearance, incarceration, or other significant appointment such as an employment interview, Division of Child Support Enforcement (DCSE) related appointment, or other similar appointment;
 3. The participant had a verified emergency family crisis, such as loss of residence due to a natural disaster or the death of a participant's immediate family member;
 4. The participant had a temporary verified lack of transportation with no alternate means of transportation, including walking;
 5. The participant was prevented from participating due to verified severe weather conditions which prevented other persons in the area of the participant's residence from traveling.

6. The participant provides verification that child care for a child under the age of 13 was unavailable, unaffordable, or unsuitable.
 7. The participant is not capable of performing the work assigned or the essential job functions related to the work activity due to unsafe worksite conditions, physical demands of the position, the participant's lack of skills or knowledge required for the position, and other similar circumstances.
 8. The job offered is vacant due to a strike, lockout, or other bona fide labor dispute; or the job offered is contrary to the conditions of the participant's membership in a union governing the occupation.
 9. The participant provides verification that he or she is experiencing a domestic violence episode which threatened the safety of the participant and/or the participant's child.
- B.** JOBS shall request, and the participant shall provide, verification of good cause. Verification may include the following:
1. Physician's statements;
 2. Appointment notices such as appointments from courts, FAA, and other similar notices;
 3. Death certificates;
 4. Public knowledge or newspaper articles;
 5. Information from the DES Child Care Administration (CCA);
 6. Police reports;
 7. Statements from crisis shelter staff and/or witnesses of domestic violence;
 8. Worksite visits;
 9. Signed participant statements containing all factors contributing to the failure to comply if no other verification is possible.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2). New Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-123. TPEP: Failure to Participate; Withholding

- A.** If a TPEP parent required to participate fails to participate or comply with Program requirements, or is avoiding or limiting employment, JOBS shall determine whether good cause exists as described at R6-10-122.
- B.** When JOBS determines that a TPEP parent required to participate fails to participate without good cause, the Department shall withhold TPEP cash assistance.
- C.** JOBS shall send the participant written notification explaining:
 1. When and how the parent failed to comply,
 2. The consequences of non-compliance,
 3. The pay period to which the Department shall impose the withholding, and
 4. How the individual can recommit.
- D.** At the 3rd withholding, JOBS shall close the participant's JOBS case.

- E.** A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department withholding of cash assistance.
- F.** A participant who wishes to appeal a withholding of cash assistance shall file a written request with the Department following the procedures in A.A.C. R6-12-1002.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2). New Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-124. Subsidized Employment - JOBSTART

- A.** To be eligible to participate in JOBSTART, a participant shall:
 1. Be a JOBS participant,
 2. Be receiving both cash assistance and food stamps,
 3. Have completed a Job Readiness workshop and preliminary job search,
 4. Be reasonably expected to be able to benefit from subsidized employment in terms of enhanced employability.
- B.** JOBS shall provide a JOBSTART orientation to participants. The orientation shall describe JOBSTART, including:
 1. The benefits of subsidized employment;
 2. The diversion of the participant's cash assistance and food stamp benefits for wage subsidy;
 3. The consequences of failure to comply with JOBSTART requirements;
 4. The availability of, and the requirements to qualify for and obtain, supplemental payments;
 5. The fair hearing process for challenging adverse action or failure to receive a supplemental payment;
 6. The exclusion of JOBSTART wages in calculating cash assistance and food stamp benefit eligibility;
 7. The potential eligibility for advance Earned Income Credits (EIC) as allowed under the Internal Revenue Code.
- C.** JOBS shall make job referrals by matching a participant's skills, experience, and employment goal with a JOBSTART employer's requirements. JOBS shall also consider the following criteria in making JOBSTART employment referrals:
 1. Whether a referral will give a participant additional employment opportunities because of skills learned through JOBSTART employment;
 2. Whether a referral is likely to result in a permanent, unsubsidized, or full-time employment for the participant;
 3. The length and quality of training the JOBSTART employer will provide to the participant;
 4. Wages, benefits, and opportunities for advancement;
 5. The employer's turnover rate; and
 6. Other comparable or similar factors.
- D.** JOBS shall schedule the participant for an interview with the prospective employer and notify the participant of the interview date, place, and time.
- E.** The employer shall decide whether to hire a participant.

- F.** A participant shall abide by an employer's regular requirements regarding:
1. Submitting an application for employment,
 2. Appearing for interviews,
 3. Providing necessary information such as citizenship verification,
 4. Hours of employment,
 5. Attendance,
 6. Job performance,
 7. Conduct, and
 8. Other similar conditions of the employment.
- G.** A participant shall comply with the following JOBSTART requirements:
1. Sign the JOBS form agreeing to abide by JOBSTART requirements;
 2. Appear for pre-referral and assessment interviews with JOBS staff or JOBS designee;
 3. File a weekly report of employment days, hours, and pay received;
 4. Accept and maintain subsidized employment;
 5. Establish good cause for failing to participate, as prescribed in R6-10-122;
 6. Report changes to JOBS which affect JOBSTART participation such as:
 - a. The need for additional support services as provided at R6-10-119,
 - b. Accepting or refusing an offer of employment,
 - c. Absence from or termination of employment,
 - d. Job position or function modifications, and
 - e. Other similar or comparable factors;
 7. Ensure that the participant's children between the ages of 6 and 16 receive school instruction as prescribed in A.R.S. § 15-802.
- H.** At the end of each work week, a participant shall complete and sign the JOBS form on which the participant shall indicate his or her name, days and hours worked, and pay received. The participant shall obtain his or her supervisor's signature, or that person's designee, on the form and send the form to his or her JOBS worker.
- I.** The Department shall use information on the form to determine:
1. Whether the participant is entitled to a supplemental payment as provided in R6-10-125(N);
 2. The amount of reimbursement for JOBSTART employers as prescribed in R6-10-126(H); and
 3. The participant's compliance with JOBSTART.
- J.** If the participant fails to send in the completed form, the Department shall impose a sanction, as provided in R6-10-121, or a withholding as provided in R6-10-123, of cash assistance, and withhold supplements. If the employer fails to sign the form, reimbursement payments to the employer shall be delayed until the employer signs the form or is terminated for the failure to sign, as prescribed in R6-10-126(D)(4).
- K.** Participants may participate in JOBSTART employment for up to 6 months with 1 extension of 3 months. If a participant's employer wishes to request an extension, the employer shall request the extension in writing and shall provide the following information on which JOBS shall base its decision to extend:
1. Name of the participant for whom the extension is requested,
 2. Position for which an extension is requested,
 3. What additional experience or training is needed to achieve competency,
 4. The employer's expectation for hiring the individual following the extension,
 5. The length of the extension, and
 6. Other similar or comparable factors indicating an extension is necessary.
- L.** Total JOBSTART employment time for a participant shall not exceed 9 months;
- M.** Participants shall comply with Program requirements, including all JOBSTART requirements, as described in this Article. If a participant fails to participate, comply with Program requirements, or is avoiding or limiting employment, the Department shall impose a sanction, as provided at R6-10-121, or withholding of cash assistance, as provided at R6-10-123.
- N.** Each month, the Department shall make supplemental payments to participants whose net wages did not equal the combined benefit amount of cash assistance and food stamps for which they were eligible.
- O.** When a participant's combined cash assistance and food stamp monthly benefit amount exceeds the amount of the participant's adjusted gross wages and supplemental payments for the same month, and the loss is due to an unpaid hour of absence as reported by the JOBSTART employer, the Department shall:
1. Presume that each unpaid hour was not for good cause;
 2. Withhold a supplemental payment to make up the difference; and
 3. Send the participant written notice of adverse action no later than 10 days following the end of the benefit month. At a minimum, the notice shall include the following information:
 - a. The information required for an adequate notice as described in R6-10-121(D);
 - b. The participant's right to provide verification of good cause for such absence, as prescribed in R6-10-122, and the participant's right to receive a supplemental payment if the Department finds that the participant has established good cause; and
 - c. The participant's responsibility to provide documentation of good cause to JOBS within 10 calendar days from the date of notice to avoid withholding of the supplemental payment pending the outcome of a fair hearing.
- P.** The Department shall provide a supplemental payment reconciling the difference no later than 10 days after the end of the month in which the participant establishes good cause if:
1. The participant provides verification of good cause as described in R6-10-122(B), and
 2. The verification is received by JOBS within 10 calendar days of the date the adverse action notice was mailed.
- Q.** The Department shall not provide the participant a supplemental payment reconciling the difference if the participant does not request a hearing or requests a hearing but waives the continuation of benefits pending the outcome of the hearing, and either:
1. The participant does not provide any verification of good cause, or
 2. The participant does not timely provide verification of good cause.
- R.** The Department shall conduct hearings on appeals of adverse action as prescribed in Article 3. Grievances are also governed by procedures provided in Article 3.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2). New Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-10-125. Employer Participation - JOBSTART

- A.** An employer who wants to participate in JOBSTART shall notify the JOBS office in the community where the employer is located. To qualify for participation, an employer shall:
1. Agree to place a participant in a full-time position;
 2. Reasonably expect to offer the participant an opportunity for full-time, unsubsidized employment;
 3. Normally require the participant to work no more than an average of 40 hours per week;
 4. Not place the participant in a position that will displace a regular employee;
 5. Pay wages that are substantially like the wages paid for similar jobs, with like adjustments for experience and skills, but never less than federal minimum wage;
 6. Maintain safety, health, and working conditions at or above levels generally acceptable in the industry and no less than that of comparable jobs offered by the employer;
 7. Provide training at the worksite which is necessary to meet the competency standards for the position;
 8. Provide health care coverage, sick leave, holiday and vacation leave, and other comparable benefits in conformance with the employer's rules for new employees;
 9. Provide Workers' Compensation coverage;
 10. Help the participant obtain any advance Earned Income Credit for which the participant may be eligible;
 11. Sign the agreement as prescribed in R6-10-125(D); and
 12. Sign the Department's certification form as prescribed in R6-10-125(F).
- B.** If the employer satisfies the criteria listed in subsection (A), the employer may place a job order with JOBS. The order shall include the following information on the available position:
1. Days and hours of work,
 2. Wages,
 3. Description of responsibilities,
 4. Benefits,
 5. Opportunity for advancement, and
 6. Other pertinent job related information.
- C.** No employer is required to participate in JOBSTART.
- D.** An employer who wants to hire a participant shall sign an agreement with the Department.
1. The employer shall affirm that the employer satisfies all of the selection criteria listed in R6-10-125(A) and will continue to meet all the selection criteria while participating in JOBSTART.
 2. If the employer violates a JOBSTART requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
 3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
 4. The employer shall prepare and provide to the Department the following reports:
 - a. Each week, the employer shall verify and sign a timesheet for each participant stating:
 - i. Gross wages,
 - ii. Participant net earnings,
 - iii. Number of paid hours of work (including paid hours of leave),
 - iv. Hours for which a participant was not paid because the participant had an unexcused absence, and
 - v. Hours for which the participant was not paid because the employer reduced available work hours.
- b.** No later than the 10th workday of each calendar month following a month of work, the employer shall complete and provide to JOBS a 1-page report on each participant's performance. The report shall include the following information:
- i. Skills (competencies) gained as a result of employment;
 - ii. Ability to correctly and timely complete assignments;
 - iii. General work habits such as punctuality, absenteeism, and neatness of work area; and
 - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
- 5.** An employer shall allow JOBS staff to schedule and make visits to the worksite, so staff can observe a participant's work activities and interview the participant.
- E.** The employer shall sign and date the agreement. A JOBS representative and the participant shall also sign and date the agreement.
- F.** An employer who wants to participate in JOBSTART shall also provide JOBS with a signed, dated, and certified form. On the form, the employer shall certify the information listed in this Section as true, as to the employer, and its principal officers and directors.
1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the state of Arizona, or any other state.
 2. The employer has not, within the preceding 3 years, been convicted of or had a civil judgment rendered against the employer for:
 - a. Fraud,
 - b. Antitrust,
 - c. Embezzlement,
 - d. Theft,
 - e. Forgery,
 - f. Bribery,
 - g. Falsification or destruction of records,
 - h. Making false statements, or
 - i. Receiving stolen property.
- G.** The Department shall compute an employer's reimbursement amount based on the information the participant and employer provided as described in R6-10-125(D)(4)(a).
- H.** For each participant, the employer's reimbursement for wages and employer's expenses shall not exceed a wage reimbursement that is the lesser of:
1. The gross wages paid to the participant in the month, or
 2. \$400.
- I.** The Department shall issue the reimbursement no later than the 25th day of the same calendar month in which the employer's report is timely received. Late receipt of the form may delay reimbursements.
- J.** If JOBS knows or learns of information indicating that the employer's certification, pursuant to R6-10-125(F), is or has become untrue, the Department shall terminate the employer's

participation in JOBSTART and shall not allow the employer to participate in the future.

- K.** The Department shall also terminate the employer's participation in JOBSTART if the employer has shown a pattern of either terminating participants before the completion of training or of not offering unsubsidized employment to participants who have successfully completed training with the employer.

1. JOBS shall consider each occurrence of either circumstance in establishing the pattern.
2. JOBS shall not allow the employer to participate in JOBSTART if the total occurrences exceed the greater of the following figures, unless the employer can establish good cause:
 - a. 2 occurrences, or
 - b. 20% of the total number of participants placed with the employer.
3. If the employer claims good cause, the employer shall provide proof that the participant failed to meet the employer's requirements pursuant to R6-10-124(F), and that the employer attempted to establish a reasonable alternative with the participant but was unsuccessful, due to circumstances outside the employer's control.

- L.** If JOBS determines that an employer has violated JOBSTART requirements, as prescribed in R6-10-125(A), the Department shall take all of the following adverse actions against the employer:

1. Withhold any subsidized payments due the employer, following the date of the violation;
2. Seek repayment of any amounts overpaid to the employer; and
3. Not allow the employer to participate any longer in JOBSTART as prescribed in R6-10-125(J);

- M.** If the Department plans to take adverse action against an employer, the Department shall send the employer a written notice of adverse action. At a minimum, the notice shall include:

1. The name and address of the employer;
2. The action taken and the reason for the adverse action;
3. The authority for the action; and
4. The employer's appeal rights.

- N.** An employer who disagrees with the amount of an unsubsidized payment, or who is subject to adverse action as prescribed in subsection (M), may file a grievance as provided in Article 3.

- O.** The Department shall conduct grievance procedures pursuant to R6-10-303.

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2). New Section adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-126. Repealed

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2).

R6-10-127. Repealed

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2).

R6-10-128. Repealed

Historical Note

Adopted effective January 10, 1977 (Supp. 77-1).
Amended effective July 27, 1983 (Supp. 83-4). Repealed effective June 6, 1995 (Supp. 95-2).

ARTICLE 2. REPEALED

R6-10-201. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Amended effective January 10, 1997 (Supp. 97-1).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-202. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-203. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-204. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-205. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-206. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-207. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-208. Repealed

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-209. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-210. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-211. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-212. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-213. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-214. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-215. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-216. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-217. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-218. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-219. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-220. Repealed**Historical Note**

Adopted effective December 11, 1995 (Supp. 95-4).
Repealed effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 3. GRIEVANCE PROCEDURES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-301. Definitions

The definitions in R6-10-101 apply in this Article.

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-10-302. Grievances - Regular Employees; Employer

Regular employees of employers, with whom JOBS participants are placed in unpaid or subsidized jobs, may file a grievance regarding displacement as prescribed in this Article. As used in this Section, displacement shall include assigning a participant to a position which:

1. Results in the termination or reassignment of a regular employee;
2. Results in the reduction of non-overtime work, wages, or benefits of a regular employee;
3. Impairs an existing contract for service or a collective bargaining agreement;
4. Fills the position of a regular employee on layoff status;
5. Creates a new position for a participant when the new position performs substantially the same job functions as the position held by a regular employee on layoff, or who is subsequently terminated;
6. Infringes upon the promotional opportunities of a regular employee; or
7. Fills any established, unfilled position.

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pur-

suant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-303. Grievance Process

- A.** Upon request, JOBS shall provide information to regular employees and Project employers regarding their right to file a grievance and the procedures for doing so.
- B.** The aggrieved party may seek to informally resolve a grievance at the regional level with the JOBS Regional Program manager, or that person's designee, or may request a fair hearing.
- C.** To pursue informal resolution, an aggrieved party shall file a Departmental grievance form with the JOBS Regional Program Manager or designee. The form shall contain the following information:
 1. Aggrieved party's name, address, and phone number;
 2. Date of grievance;
 3. Contact person, if other than the aggrieved party;
 4. Regional Program Manager or designee, address, phone number;
 5. A description of the action which is the subject of the grievance and the date of the action; and
 6. The proposed resolution.
- D.** If the aggrieved party requests an informal resolution, the Department shall hold an informal resolution meeting with the aggrieved party, within 15 working days from the date the Department receives the grievance.
- E.** If a grievance is not resolved at the informal meeting, the aggrieved party may request a fair hearing with the Department of Economic Security, Office of Appeals, within 20 days from the date of the informal meeting, by sending a request for a fair hearing to the JOBS local office.
- F.** If the aggrieved party does not choose to seek an informal resolution as prescribed in subsections (C) and (D), the aggrieved party may request a fair hearing by filing a request with the local JOBS office. An employer who requests a fair hearing shall file a request within 20 calendar days of the date of the adverse action notice as described in A.A.C. R6-12-1002. Upon request, JOBS shall assist the aggrieved party in preparing the hearing request. Assistance shall include an explanation of the aggrieved party's right to fair hearing, the fair hearing procedures, and the process.
- G.** The date the hearing is deemed filed shall be in accordance with A.A.C. R6-12-1002.
- H.** The JOBS local office shall prepare and forward the request for a hearing to the Office of Appeals. The JOBS office shall include:
 1. The information submitted pursuant to subsection (C),
 2. The decision reached at the informal resolution meeting, and
 3. Any decision notice or other documents relating to the hearing request.
- I.** Upon receipt of a request for a fair hearing, the Office of Appeals will conduct the hearings pursuant to A.A.C. R6-12-1005 through R6-12-1007 and R6-12-1009 through R6-12-

1013(A), except that references to FAA shall be references to JOBS.

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-10-304. Further Appeal

- A.** Regular employees grieving displacement issues pursuant to R6-10-125(A)(4) may appeal the decisions of a Department hearing officer as prescribed below:
 1. The aggrieved party shall send the appeal to:

Office of Administration Law Judges
U.S. Department of Labor
Vanguard Building, Room 600
1111 20th Street, N.W.
Washington, DC 20036
 2. The aggrieved party shall send a copy of the appeal to the following:
 - a. Assistant Secretary for Employment and Training
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210; and
 - b. Assistant Secretary for Family Support
Department of Health and Human Services
370 L'Enfant Promenade, SW, 6th Floor
Washington, DC 20447
 3. The aggrieved party shall include the following information in the appeal:
 - a. The full name, address, and telephone number of the aggrieved party;
 - b. Citations to provisions or regulations the aggrieved party believes have been violated;
 - c. A copy of the original grievance filed with the state; and
 - d. A copy of the state's finding and decision.
 4. The decision of the Office of the Administrative Law Judges is the final decision of the Department of Labor.
- B.** Employers grieving issues pursuant to R6-10-125 may appeal the findings of a Department hearing officer to the Department's Appeals Board pursuant to R6-12-1014(A) except that the decision of the Board is final.

Historical Note

Adopted effective December 11, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

TITLE 6. ECONOMIC SECURITY**CHAPTER 11. DEPARTMENT OF ECONOMIC SECURITY
JOB TRAINING PARTNERSHIP ACT (JTPA)**

(Authority: A.R.S. § 41-1954 et seq.)

ARTICLE 1. GENERAL PROVISIONS

Section

- R6-11-101. Administrative agency
- R6-11-102. Definitions
- R6-11-103. Eligibility criteria
- R6-11-104. Selection-enrollment responsibility
- R6-11-105. Needs-based payments
- R6-11-106. Nepotism
- R6-11-107. Confidentiality
- R6-11-108. Cost principles
- R6-11-109. Title III matching requirements
- R6-11-110. Matching JTPA education 8% funds
- R6-11-111. Complaint resolution procedures

ARTICLE 2. JTPA APPEAL PROCESS

- R6-11-201. Right to appeal
- R6-11-202. Hearing request
- R6-11-203. Notice of hearing
- R6-11-204. Hearing procedures
- R6-11-205. Hearing decisions
- R6-11-206. Failure of a party to appear
- R6-11-207. Hearing officer
- R6-11-208. Postponement of hearing

ARTICLE 1. GENERAL PROVISIONS**R6-11-101. Administrative agency**

The Arizona Department of Economic Security (DES) is the state agency responsible for administration of Job Training Partnership Act (JTPA) programs, designated by the Governor of Arizona, pursuant to P.L. 97-300 as amended.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-101 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-102. Definitions

The following definitions shall apply in this Chapter, unless the context otherwise requires:

1. "Administrative entity" means the organizations or agencies designated by the Private Industry Council (PIC) to operate the programs for the Service Delivery Area (SDA) grant recipient.
2. "DES or the Department" means the Arizona Department of Economic Security.
3. "Direct subrecipient" means a subrecipient which contracts directly with DES to receive JTPA funds.
4. "Economically disadvantaged" means an individual as described in Section 4(8) of JTPA.
5. "Grant recipient" means the organization or agency designated by the Private Industry Council (PIC) and local elected officials to contract and receive funds for the Service Delivery Area (SDA) under Title II of JTPA.

6. "Interested party" means an individual who participates in or applies for participation in a program administered under JTPA or a person or organization which is directly or adversely affected by the action or inaction of DES with regard to JTPA.
7. "JTPA" means the Job Training Partnership Act of 1982, P.L. 97-300, as amended.
8. "Needs-based payment" means cash payments based on need providing direct benefits to individual participants to enable them to participate in a training program under JTPA.
9. "Private Industry Council (PIC)" means the group of individuals from the public and private sectors certified by the Governor to plan and oversee the Title II programs under JTPA.
10. "Service Delivery Area (SDA)" means the geographical area designated by the Governor in which a comprehensive program pursuant to JTPA will be planned by a certified PIC.
11. "Stop-gap employment" means work which an applicant does only because he has lost the customary work for which his training, experience or work history qualifies him. Employment would be considered "stop-gap" if the salary is substantially below the salary of the applicant's primary occupation and if he is working substantially under the skill level of his customary occupation. Regardless of the number of hours devoted to the stop-gap work activity, it is considered odd-job work outside the customary occupation for which he is qualified.
12. "Subrecipient" means any person, organization or other entity which receives JTPA funds either directly or indirectly from DES. Depending on local circumstances, the PIC, local elected official, or administrative entity may be a subrecipient.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-102 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-103. Eligibility criteria

- A. Applicants shall be determined eligible for enrollment into JTPA programs if they meet the requirements set forth in both the General Criteria (subsection (B) below) and the respective Specific Criteria (subsection (C) below) *or* otherwise comply with Section 181(k) of JTPA.
- B. General criteria. Applicants must meet the following:
 1. Be citizens or nationals of the United States, or lawfully admitted permanent resident aliens, or lawfully admitted refugees or parolees, or other individuals authorized by the United States Attorney General to work in the United States; and
 2. Be in compliance with Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) if applicable.
- C. Specific criteria. To be determined eligible for enrollment in one of the described JTPA subparts (Titles II-A, II-B, or III) or

Section 124, an applicant must meet the criteria listed below for that specific subpart.

1. Title II-A, adult or youth programs:
 - a. Economically disadvantaged; and
 - b. Sixteen years of age or older, except that youths aged 14 and 15 may also be eligible if the SDA Job Training Plan has provided for a "pre-employment skills training program" for these youths; and
 - c. Resident of the SDA to which application is made, except that non-residents may be eligible if the SDA Job Training Plan provides for service to non-residents.
 2. Title I, Section 124, training programs for older individuals:
 - a. Economically disadvantaged; and
 - b. Fifty-five years of age or older.
 3. Title II-B, Summer Youth Employment Training Programs:
 - a. Economically disadvantaged; and
 - b. Age 16 through 21, except that individuals aged 14 and 15 may be eligible if the SDA Job Training Plan identifies services to this age group; and
 - c. Resident of the SDA to which application is made, except that non-residents may be eligible if the SDA Job Training Plan provides for service to non-residents.
 4. Title III, employment and training assistance for dislocated workers programs (any one of the four eligibility categories):
 - a. Category one:
 - i. Has been terminated or laid-off from employment; and
 - ii. Is eligible for or has exhausted his entitlement to unemployment compensation.
 - b. Category two:
 - i. Has been or will be terminated as a result of any permanent closure of a plant or facility; and
 - ii. Is unlikely to return to his previous industry or occupation.
 - c. Category three:
 - i. Has been involuntarily unemployed (as defined in A.R.S. § 23-777 and A.C.R.R. R6-3-5605, R6-3-56130 and R6-3-56205) for 13 weeks or more, or is employed in stop-gap employment; and
 - ii. Is unlikely to return to a previous or similar occupation within the applicant's labor market area.
 - d. Category four:
 - i. Has been involuntarily unemployed (as defined in A.R.S. § 23-777 and A.C.R.R. R6-3-5605, R6-3-56130 and R6-3-56205) for 13 weeks or more, or is employed in stop-gap employment; and
 - ii. Has little likelihood of employment in a similar industry or occupation within the applicant's labor market area; and
 5. Applicants shall be eligible for Title II-A programs even though they are not economically disadvantaged, if they have encountered substantial barriers to employment as defined in Section 203(a)(2) of JTPA and the respective SDA Job Training Plan or SDA contract with DES.
 6. Handicapped youth shall be considered as a family of one for the purposes of determining eligibility.
- D.** Applicants determined eligible may be enrolled as participants within 45 calendar days of the date of the completed applica-

tion. If the applicant is not enrolled within this time, a new application must be taken (or the original application updated to show any changes in applicant data and the date of update) and have affixed the signature of the applicant (parent or guardian if the applicant is under age 18) and the authorized SDA or subrecipient representative.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-103 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-104. Selection-enrollment responsibility

- A.** Each direct subrecipient of the Department shall establish criteria to be used for selection of eligible applicants to participate in JTPA programs for which the subrecipient is funded and responsible.
- B.** Selection criteria shall be objective and applied equitably to conform with the intent and requirements of the JTPA, and be consistent with the respective Job Training Plans. The criteria for adult programs shall relate to the potential for increased employment and earnings and reduced welfare dependency.
- C.** A listing of the selection criteria used shall be made available to any applicant.
- D.** Enrollment of non-economically disadvantaged participants with substantial barriers to employment, as defined in Section 203(a)(2) of JTPA, shall not exceed 10% of the current and cumulative number of individuals enrolled in all Title II-A, Section 202(a)(1), programs within the respective SDA.
- E.** Enrollment of Title III participants shall follow priority in order of eligibility categories as identified in R6-11-103.C.4.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-104 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-105. Needs-based payments

- A.** Each direct subrecipient shall establish needs-based payment criteria as approved by the Department. Such criteria may take into account such factors as the participant's or the participant's family's cost of housing, food, health care, child care, transportation, clothing, and other similar factors during the training period. It shall also take into account income available to meet these subsistence needs, including any specific supportive services provided by JTPA or any other agency. Such criteria shall be applied equitably to all participants
- B.** A listing of the needs-based payment criteria used shall be made available to any applicant.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-105 adopted as an emergency effective January 6, 1984, now adopted and amended as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-106. Nepotism

- A. No direct recipient, grant recipient, subrecipient, or administrative entity may hire a person in an administrative capacity, staff position, on-the-job training position, faculty position, or any other training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity or other position influential in making selections for hiring or training for the direct recipient, grant recipient, subrecipient, or administrative body.
- B. No direct recipient, grant recipient, subrecipient, or administrative body may hire a person in an administrative capacity, staff position, on-the-job training position, faculty position, or any other training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity or other position influential in making selections for hiring or training for the direct recipient, grant recipient, subrecipient, or administrative body from which that body receives its funds. To the extent that an applicable state or local legal requirement regarding nepotism is more restrictive than this position, such state or local requirement shall be followed.
- C. For purposes of this Section, the term "immediate family" means wife, common-law wife, husband, common-law wife, husband, common-law husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, or stepchild.
- D. The term "person in an administrative capacity" or "position influential in hiring or making selections for training", includes those persons who have overall administrative responsibility for the program including all elected or appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this Act, as well as other officials who have influence or control over the administration of the program, such as the project director, deputy director, unit chiefs or persons who have selection, hiring, placement or supervisory responsibilities for ensuring equity in the implementation of this Act. These restrictions shall not apply to persons who are economically disadvantaged and serve on PICs, councils or committees which are linked or are a part of the JTPA system.
- E. This rule may be waived where the Department finds that exceptional circumstances exist which would make enforcement or application of this rule impracticable, unwarranted, or otherwise contrary to the intent of the JTPA.
- F. For Native American programs, Public Law 97-300, Title IV definition shall apply.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). New Section R6-11-106 adopted as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-107. Confidentiality

Each subrecipient of JTPA funds shall abide by and ensure compliance with all applicable state and federal statutes, policies and regulations regarding the use and disclosure of information concerning any applicant or participant under JTPA programs.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Correction. Supp. 84-1 should read Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days.

Former Section R6-11-107 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-108. Cost principles

- A. For purposes of reporting JTPA expenditures, subrecipients shall utilize cost principles set forth in JTPA, applicable federal regulations, and cost manuals and guides developed by the Department.
- B. The Department shall utilize OMB circulars A-87 and A-102 to determine the appropriateness of direct and indirect costs incurred by subrecipients.
- C. The expenditures associated with the activities of outreach, intake and eligibility determination shall be chargeable to the training cost category.

Historical Note

Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-108 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2)

R6-11-109. Title III matching requirements

- A. The direct subrecipient shall be responsible for developing and documenting the required matching funds.
 - 1. Matching resources must be generated from non-federal sources and may not be used as matching for other projects.
 - 2. Matching funds shall be those documented costs provided for the support of programs funded under JTPA Title III.
 - 3. The following budget categories shall be legal match for JTPA Title III funds, provided that they are documented, verifiable, necessary, and reasonable to accomplish Title III goals, and are costs which would otherwise be allowable under the Act.
 - a. State-funded unemployment insurance benefits. Up to 50 percent of state-funded unemployment insurance benefits provided to an eligible dislocated worker who is enrolled in a program of training or retraining under this Title.
 - b. Base wages. The base wages paid by an employer to an eligible participant during training if training is authorized by an on-the-job training (OJT) contract funded by this Title less reimbursement by JTPA funds or other federal funds.
 - c. Direct costs. For purposes of JTPA Title III, these may consist of:
 - i. Depreciation of equipment and buildings tied directly to the program;
 - ii. Identified donations or cash contributions;
 - iii. Fair market value of donated services, and real or personal property or its usage;
 - iv. Cash or in-kind contributions;
 - v. Expendable personal property may include items such as expendable equipment, office or educational supplies, laboratory or vocational supplies, and shall not exceed a fair market value; and
 - vi. Nonexpendable personal property which must be identifiable through acceptable accounting practices.
 - d. Indirect costs. Indirect costs, allocated in accordance with Office of Management and Budget Circular A-87, may be a source of matching funds. The amount used as match may not be shifted to another federally-sponsored grant program or contract.

- e. State or local education funds. Any documented state or local education funds provided for the support of programs funded under JTPA Title III may be used as match. This includes state categorical full-time student equivalent (FTSE) funds used as support for approved Title III programs.
- B. Direct subrecipients of Title III funds shall provide required matching funds associated with the funds received.
- C. Matching funds, generated during one contract period, which are in excess or required match may be carried forward and used in the subsequent contract period. Such carry-forward of match generated by the subrecipient in the performance of a Title III contract may be used as match only for Title III programs.

Historical Note

Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-109 adopted as an emergency effective January 6, 1984, now adopted and amended as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-110. Matching JTPA education 8% funds

- A. Discretionary monies allocated to the Governor pursuant to Section 123 of JTPA shall be used to provide financial assistance to any state education agency(ies) responsible for education and training and expended for identified target populations in accordance with the Governor's Coordination and Special Services Plan.
- B. Matching funds under Section 123, JTPA
 - 1. The contracting agency(ies) shall be responsible for developing and documenting the required match under Section 123 (b).
 - 2. This match may include:
 - a. State categorical funds;
 - b. Federal Vocational Education Act funds;
 - c. Any other non-JTPA federal funds expended for employment and training programs for disadvantaged youth and adults (including special target populations) directly served in programs funded by JTPA education 8% monies;
 - d. Documented in-kind match for the activities under (a), (b), and (c);
 - e. The base wages paid by an employer to an eligible participant during training if training is authorized by an on-the-job training (OJT) contract funded by JTPA education 8% monies less reimbursement by JTPA funds or other federal funds.
 - 3. In-kind match means costs that are prorated to the extent that they are of direct benefit to the program, and may consist of:
 - a. Depreciation of equipment and buildings;
 - b. Identified donations;
 - c. Fair market value of donated services and real or personal property or its usage;
 - d. Expendable personal property which may include items such as expendable equipment, office or educational supplies, laboratory or vocational supplies, and shall not exceed its fair market value;
 - e. Nonexpendable personal property, which must be identifiable through acceptable accounting practices.
 - 4. Funds used for match with JTPA education monies shall not be used as match with other funds.

Historical Note

Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days

(Supp. 84-1). Former Section R6-11-110 adopted as an emergency effective January 6, 1984, now adopted and amended as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-111. Complaint resolution procedures

- A. Each direct subrecipient of JTPA funds shall maintain a record of complaints and grievances, and shall appoint a grievance officer for the purpose of processing complaints or grievances filed pursuant to Sections 144 and 167 of JTPA, except for complaints of discrimination filed pursuant to Title VI of the Civil Rights Act of 1964.
- B. All participants upon enrollment and other interested parties upon request shall be provided a written description of the subrecipient complaint procedures including notification of their right to file a complaint and instructions on how to do so.
- C. The procedure should include at a minimum:
 - 1. A requirement that the complaint be in writing;
 - 2. Provide the name and address of the organization or individual against whom the complaint is made;
 - 3. Provide the name, address and signature of the complainant;
 - 4. Provide authorized subrecipient agency signature and date of filing;
 - 5. Written notice of date, time and place of hearing, including notification of the opportunity to present evidence;
 - 6. A record hearing be held within 30 days of the date of the complaint;
 - 7. A written decision issued within 60 days of the date of the complaint.
 - 8. The decision shall include notice of the right to appeal pursuant to Article 2 of these rules.
- D. Interested parties seeking to file grievances under JTPA to the Department of Economic Security shall be referred to the nearest appropriate office of the Department.
- E. In cases alleging violations of the non-discrimination provisions of JTPA Section 167 which would also be violations of Title VI of the Civil Rights Act of 1964, subrecipients shall immediately advise complainants of their right to file directly with the U.S. Department of Labor, Office of Civil Rights, and provide them with instructions on how to do so.

Historical Note

Adapted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-111 adopted as an emergency effective January 6, 1984, now adopted and amended as a permanent rule effective April 5, 1984 (Supp. 84-2).

ARTICLE 2. JTPA APPEAL PROCESS

R6-11-201. Right to appeal

Any interested party shall have a right to appeal a determination, decision, order, or other action or inaction of either the Department or a JTPA subrecipient.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-201 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-202. Hearing request

- A.** A request for a hearing is any oral or written communication by an interested party or its legal counsel which expresses a clear intent to appeal an adverse action. The freedom to make such a request must not be limited or interfered with in any way.
If the request is oral, the Department shall prepare a written request on behalf of the individual and obtain the individual's signature on the request.
- B.** The request for hearing shall be filed in accordance with the following time limits:
1. Within ten days of the date of the adverse decision when the request is an appeal of an adverse decision resulting from a subrecipient grievance procedure;
 2. Within ten days of the date that the subrecipient failed to hold a hearing or issue a decision within the required time limit;
 3. Within one year of the date of the alleged adverse occurrence in all other cases.
- C.** The submission of any request for a fair hearing not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation or to delay caused by the U.S. Postal Service or its successor.
- D.** The hearing shall be conducted within 30 days of the request unless all interested parties waive the time limit in writing.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-202 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-203. Notice of hearing

- A.** Advance written notice of the hearing will be provided by regular mail to all interested parties at least ten days prior to the hearing to permit adequate preparation of the case. The notice will include:
1. The time, date and place of the hearing. Hearings shall be held at those regularly established hearing locations most convenient to the interested parties, or, at the discretion of the hearing officer, by telephone.
 2. The name, address, and telephone number of the person to notify in the event it is not possible for the party or its legal counsel to attend the scheduled hearing.
 3. The hearing procedures, a statement of the issues, and any other information which would provide the party or its legal counsel with an understanding of the proceedings and contribute to the effective presentation of the party's case.
 4. An explanation that the party or its legal counsel may examine the case file prior to the hearing.
- B.** Any interested party may waive, either in writing or on the record, his right to notice.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-203 adopted as an emergency effective January 6, 1984, now adopted

without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-204. Hearing procedures

- A.** Hearing officer duties.
1. Hearings will be conducted by an impartial official who has no personal involvement in the case and who was not directly involved in the initial determination of the action which is being contested.
 2. The hearing official will be a state-level employee designated to conduct hearings and will:
 - a. Regulate and conduct the course of the hearing consistent with due process to insure an orderly hearing.
 - b. Insure all relevant issues are considered, and evidence not related to the issues is not allowed to become a part of the record.
 - c. Administer oaths or affirmations.
 - d. Request, receive, and make a part of the record all evidence determined necessary to decide the issues being raised.
 - e. Take notice of judicially cognizable facts or generally recognized technical or scientific facts within the agency's specialized knowledge.
 - f. Make a recommendation to the Director pursuant to A.R.S. § 41-1992(C).
- B.** Witnesses and subpoenas.
1. An interested party shall arrange for the presence of his witnesses at a hearing.
 2. A notice to attend a hearing, or a subpoena, may be issued by the hearing officer on his own motion.
 3. Subpoenas requiring the attendance of witnesses or the production of documentary evidence at a hearing may be issued by the hearing officer on his own motion or upon written application by an interested party. Such request shall contain the name of the individual or documents desired, the address at which the subpoena may be served, and a brief statement of the facts which the applicant expects to prove by the individual or documents requested. The application shall be submitted to the Department in sufficient time prior to the hearing to permit preparation and service of the subpoena before the hearing.
 4. Witnesses subpoenaed who attend hearings shall be allowed fees at the same rate as paid by the superior court.
- C.** Consolidation of cases. When the same or substantially similar evidence is relevant and material to the issues in more than one case, proceedings thereon may be conducted jointly, a single record of the proceedings made and evidence introduced with respect to one case considered as introduced in the others, unless the hearing officer determines that such consolidation would be prejudicial to the interests or rights of any interested party.
- D.** Hearings. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal or petition.
1. Public hearings. All hearings shall be open to the public, but the hearing officer conducting a hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties where confidential information as defined or protected by statute is offered into evidence.
 2. Hearing rights. A party or its legal counsel must be given adequate opportunity to examine all documents and records to be used during the course of the hearing at a

reasonable time before the date of the hearing, as well as during the hearing, and:

- a. Receive a copy, without charge, of relevant portions of the case file if requested.
- b. Present the case or have it presented by legal counsel.
- c. Present witnesses.
- d. Advance arguments without undue influence.
- e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
- f. Submit evidence to establish all pertinent facts and circumstances in the case.

The subrecipient which issued the adverse action shall proceed initially and have the burden of proof in presenting the case before the hearing officer.

3. Record of the hearing. A full and complete record, including properly identified exhibits, shall be kept of all proceedings in connection with an appeal or petition, and such record shall be open for inspection by any interested party. When a transcript of the proceedings is made for the Department's use or for further proceedings, a copy may, upon written request, be furnished to interested parties who shall be charged therefor, or the charge may be waived if evidence of impecunious circumstances is presented.
4. Oral arguments and briefs. At the conclusion of any hearing, the interested parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The hearing officer shall afford interested parties an opportunity either to present oral argument or to file briefs, or both. The hearing officer may limit the time of the oral argument.
5. Continuances or reopenings. The hearing officer may, on his own motion or at the request of any interested party, upon a showing of good cause, continue the hearing to a future time or reopen a hearing before a decision is issued to take additional evidence.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-204 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-205. Hearing decisions

A. Decisions.

1. The hearing officer shall issue a recommendation in accordance with A.R.S. § 41-1992.
2. All evidence, including records and documents of the Department which the hearing officer makes a part of the record of the hearing shall be considered in determination of the case. Every decision shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.
3. The recommendation shall be issued not later than 60 days after the filing of the request for hearing unless the time limit is waived by all interested parties in writing or on the record. A party may request a Director's Review when a recommendation has not been issued within 60 days of the request for hearing and the time limit has not been waived.

3. A copy of such recommendation, together with an explanation of rehearing and reconsideration rights, shall be delivered or mailed to each interested party or its attorney of record.
4. The recommendation of the hearing officer shall become the decision of the Department upon approval by the Director, and the decision shall become final unless a request for reconsideration is filed within ten days after the decision is mailed or otherwise delivered to the interested parties.
6. Prior to approving the recommendation, the Director may remand the case to the hearing officer for review and/or rehearing, specifying the nature of any additional issues to be considered. The Director may issue a decision which differs from the hearing officer's recommendation without remanding the case for review or rehearing.

B. Informal dispositions. An appeal or petition may be informally disposed of without further review on the merits:

1. By withdrawal, if the appellant withdraws the appeal in writing or on the record at any time before the recommendation is issued; or
2. By dismissal, if the appellant fails to file the appeal within the time permitted; or
3. By stipulation, if the parties agree on the record or in writing at any time before the recommendation is issued, subject to approval by the hearing officer; or
4. By default, if the appellant fails to appear or waives appearance at the scheduled hearing.

C. Rehearing

1. Except as provided in paragraph (7), a party may request a rehearing or review by filing a written motion specifying the particular grounds therefor. The motion must be filed within ten days after the recommendation was mailed or otherwise delivered. For purposes of this subsection, a recommendation shall be deemed to have been served when personally delivered or mailed to the party at its last known residence or place of business, or to its attorney of record.
2. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the hearing officer. A response may be filed by any other party within ten days after service of such motion or amended motion. The hearing officer may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
3. A rehearing of the recommendation may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - b. Misconduct of the Department or its hearing officer or the prevailing party;
 - c. Accident or surprise which could not have been prevented by ordinary prudence;
 - d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - e. Excessive or insufficient penalties;
 - f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 - g. That the recommendation is not justified by the evidence or is contrary to law.

4. The hearing officer may affirm or modify the recommendation or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in paragraph (3). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
5. Not later than ten days after a recommendation is rendered, the hearing officer may on his or her own initiative order a rehearing or review of its recommendation for any reason for which a rehearing might have been granted on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefore.
6. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the hearing officer for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
7. If in a particular case the hearing officer makes specific findings that the immediate effectiveness of the recommendation is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or reconsideration is impracticable, unnecessary or contrary to the public interest, the recommendation may be issued as a final decision by the Director without an opportunity for rehearing or reconsideration. If a recommendation is issued as a final decision without an opportunity for rehearing or reconsideration, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Department's final decisions.
8. For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
9. To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Department such statutory provisions shall govern.

D. Director's reconsideration

1. Except as provided in subsection (C)(7) above, a party may request a Director's reconsideration of an adverse hearing decision within ten calendar days after the decision was mailed or delivered.
2. The request for reconsideration must be in writing. It should set forth a statement of the grounds for reconsideration, and may be filed personally or by mail.
3. Except as provided in subsection (C)(7) above, upon timely filing of such a request, any action pursuant to the original decision shall be stayed until the Director's decision upon reconsideration is issued.
4. After receipt of a request, the Director will:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required and/or issues to be considered, or;
 - b. Decide the appeal on the record.
5. The Director's recommendation shall be the final recommendation.
6. A copy of the decision will be distributed to each interested party by regular mail.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-205 adopted as an emergency effective January 6, 1984, now adopted and amended as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-206. Failure of a party to appear

- A. If there is no appearance on behalf of an interested party at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or proceed to review the evidence of record and such other evidence as may be presented at the scheduled hearing and make a disposition or recommendation on the merits of the case.
- B. If a recommendation is issued adverse to any interested party that failed to appear at a scheduled hearing, that party may request a hearing to determine if good cause exists to reopen the hearing. The request to reopen must be in writing, filed within ten days of the date of mailing of the recommendation or disposition, and shall set forth the reasons for the failure to appear.
- C. A hearing shall be held to determine whether there was good cause for the failure to appear and, in the discretion of the hearing officer, to review the merits of the case. Upon a finding of good cause for failure to appear at the scheduled hearing, the disposition or recommendation on the merits shall be vacated and the case reset for hearing.
- D. Good cause warranting reopening of a case shall be established upon proof that both the failure to appear and failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.
- E. When an appellant fails to appear or waives appearance, the hearing officer may enter a default disposition without further right to appeal except as provided in this rule.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-206 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-207. Hearing officer

- A. Disqualification for cause. No person shall participate on behalf of the Department in any case in which he is an interested party. Challenges to the interest of any hearing officer may be heard and decided by that hearing officer, or, upon written request, referred to his immediate supervisor.
- B. Change of hearing officer. Not later than five days prior to the date set for the hearing, any interested party may file a written request for change of hearing officer. The hearing officer shall immediately transfer the matter to another hearing officer who shall conduct the hearing. No more than one change of hearing officer shall be granted to any one party.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-207 adopted as an emergency effective January 6, 1984, now adopted

without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

R6-11-208. Postponement of hearing

At the request of a party or on his own initiative, the hearing officer may order, orally or in writing, that a hearing be postponed. A requested postponement shall be granted if:

1. The request is promptly made after the party received the notice of hearing, or after the circumstance requiring postponement arises, and
2. The party has good cause for not attending the hearing at the time and date set. Good cause exists when the circumstances causing the request are beyond the reasonable

control of the requesting party, and failure to grant the postponement would result in undue hardship for the requesting party.

Historical Note

Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 6, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Former Section R6-11-208 adopted as an emergency effective January 6, 1984, now adopted without change as a permanent rule effective April 5, 1984 (Supp. 84-2).

TITLE 6. ECONOMIC SECURITY**CHAPTER 12. DEPARTMENT OF ECONOMIC SECURITY
CASH ASSISTANCE PROGRAM**

Editor's Note: Article headings and Sections of this Chapter were amended, renumbered, repealed, and adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). The Chapter heading was also changed under this exemption. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Under Laws 1997, Ch. 300, § 74(B), the Department is required to institute the formal rulemaking process on these Sections on or before December 31, 1997. Because these rules are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

6 A.A.C. 12, consisting of Article 1, Sections R6-12-101 through R6-12-105; Article 2, Sections R6-12-201 through R6-12-111; Article 3, Sections R6-12-301 through R6-12-317; Article 4, Sections R6-12-401 through R6-12-406; Article 5, Sections R6-12-501 through R6-12-508; Article 6, Sections R6-12-601 through R6-12-617; Article 7, Sections R6-12-701 through 706; Article 8, Sections R6-12-801 through R6-12-807; Article 9, Sections R6-12-901 through R6-12-908; Article 10, Sections R6-12-1001 through R6-12-1015; Article 11, Sections R6-12-1101 through R6-12-1103; Article 12, Sections R6-12-1201 through R6-12-1206; and Article 13, Sections R6-12-1301 through R6-12-1307, adopted effective November 9, 1995 (Supp. 95-4).

ARTICLE 1. GENERAL PROVISIONS

Section

- R6-12-101. Definitions
- R6-12-102. Confidentiality
- R6-12-103. Case Records
- R6-12-104. Manuals
- R6-12-105. EMPOWER: Random Assignment Evaluation

**ARTICLE 2. APPLICATION PROCESS AND
PROCEDURES**

Section

- R6-12-201. Application
- R6-12-202. Request for Benefits; Composition of the Assistance Unit
- R6-12-203. Initial Eligibility Interview
- R6-12-204. Disability Determination
- R6-12-205. Verification of Eligibility Information
- R6-12-206. Home Visits
- R6-12-207. Withdrawal of Application
- R6-12-208. Death of an Applicant
- R6-12-209. Processing the Application; Denials; Approval
- R6-12-210. Six-month Review
- R6-12-211. Reinstatement of Benefits

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

Section

- R6-12-301. Non-financial Eligibility Criteria
- R6-12-302. Applicant and Recipient Responsibility
- R6-12-303. Application for Other Potential Benefits
- R6-12-304. Residency
- R6-12-305. Citizenship and Alienage
- R6-12-306. Eligible Persons
- R6-12-307. Social Security Number
- R6-12-308. Family Benefit Cap
- R6-12-309. Relationship
- R6-12-310. Deprivation
- R6-12-311. Assignment of Support Rights; Cooperation
- R6-12-312. Good Cause for Noncooperation with Child Support Enforcement
- R6-12-313. Participation in JOBS; Exemptions; Good Cause
- R6-12-314. School Attendance
- R6-12-315. Immunization
- R6-12-316. Sanctions for Noncompliance
- R6-12-317. Voluntary Quit/Reduction in Work Effort
- R6-12-318. Duration of Assistance

- R6-12-319. Extension of the 24-month Limit
- R6-12-320. Extension of the 24-month Limit to Complete Education or Training

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES

Section

- R6-12-401. Treatment of Resources; Limitations
- R6-12-402. Treatment of Resources by Ownership Status; Availability
- R6-12-403. Treatment of Resources; Exclusions
- R6-12-404. Individual Development Accounts
- R6-12-405. Resource Transfers; Limitations
- R6-12-406. Resource Verification

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME

Section

- R6-12-501. Treatment of Income; In General
- R6-12-502. Income Available to the Assistance Unit
- R6-12-503. Income Exclusions
- R6-12-504. Special Income Provisions: Child Support, Alimony, or Spousal Maintenance
- R6-12-505. Special Income Provisions; Nonrecurring Lump Sum Income
- R6-12-506. Determining Monthly Income
- R6-12-507. Methods to Determine Projected Monthly Income
- R6-12-508. Income Verification

ARTICLE 6. SPECIAL CA CIRCUMSTANCES

Section

- R6-12-601. Pregnant Women
- R6-12-602. Caretaker Relative of SSI or Foster Child
- R6-12-603. Sponsored Noncitizen
- R6-12-604. Strikers
- R6-12-605. Dependents with Ineligible IRCA Parents
- R6-12-606. Dependents of Foster Children
- R6-12-607. Stepparents
- R6-12-608. Minor Parents
- R6-12-609. Unemployed Parents in a 2-parent Household; (TPEP)
- R6-12-610. TPEP; Education and Employment Requirements; Good Cause for Nonparticipation
- R6-12-611. TPEP; Duration
- R6-12-612. Transitional Child Care
- R6-12-613. Transitional Child Care; Eligible Children
- R6-12-614. Transitional Child Care; Duration

- R6-12-615. Involuntary Termination of Transitional Child Care
- R6-12-616. Guaranteed Child Care Benefits; Options
- R6-12-617. Guaranteed Child Care; Eligible Children

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT PAYMENT AMOUNT

Section

- R6-12-701. Need Standard
- R6-12-702. Determining Eligibility
- R6-12-703. Earned Income Disregards
- R6-12-704. Disqualification from Earnings Disregards; Good Cause
- R6-12-705. Determining Benefit Payment Amount; Prorating
- R6-12-706. Notice of Eligibility Determination

ARTICLE 8. PAYMENTS

Section

- R6-12-801. Benefit Payments
- R6-12-802. Mailing of Payments
- R6-12-803. Supplemental Payments
- R6-12-804. Returned Payments
- R6-12-805. Non-receipt of Payments; Replacement
- R6-12-806. Protective Payee
- R6-12-807. Emergency Payee
- R6-12-808. Identification Card

ARTICLE 9. CHANGES; ADVERSE ACTION

Section

- R6-12-901. Reporting Changes
- R6-12-902. Withdrawing a Member from the Assistance Unit
- R6-12-903. Determining Benefits When Adding or Removing a Member
- R6-12-904. Benefit Reduction or Termination
- R6-12-905. Ineligibility Date for an Assistance Unit
- R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit
- R6-12-907. Notice of Adverse Action
- R6-12-908. Referral for Investigation

ARTICLE 10. APPEALS

Section

- R6-12-1001. Entitlement to a Hearing
- R6-12-1002. Request for Hearing; Form; Time Limits

- R6-12-1003. Hearing Requests; Preparation and Processing
- R6-12-1004. Stay of Adverse Action Pending Appeal; Exceptions
- R6-12-1005. Hearing Officer; Qualifications; Duties; Subpoenas
- R6-12-1006. Hearings: Location; Notice; Time
- R6-12-1007. Rescheduling the Hearing
- R6-12-1008. Hearings Concerning Disability Determinations
- R6-12-1009. Group Hearings
- R6-12-1010. Withdrawal of Appeal; Default
- R6-12-1011. Hearing Proceedings
- R6-12-1012. Hearing Decision; Time Limits; Form; Contents; Finality
- R6-12-1013. Implementation of the Decision
- R6-12-1014. Further Appeal and Review of Hearing Decisions; Stay of Adverse Action
- R6-12-1015. Appeals Board Proceedings and Decision

ARTICLE 11. OVERPAYMENTS

Section

- R6-12-1101. Overpayments: Date of Discovery; Collection; Exceptions
- R6-12-1102. Overpayments: Persons Liable
- R6-12-1103. Methods of Collection and Recoupment

ARTICLE 12. INTENTIONAL PROGRAM VIOLATION

Section

- R6-12-1201. Intentional Program Violation (IPV); Defined
- R6-12-1202. IPV Disqualification Proceedings; Hearing Waiver
- R6-12-1203. Disqualification Proceedings; Hearing
- R6-12-1204. Disqualification Sanctions; Notice
- R6-12-1205. Disqualification Hearings; Appeal
- R6-12-1206. Honoring Out-of-state IPV Determinations and Sanctions

ARTICLE 13. JOBSTART

Section

- R6-12-1301. Scope
- R6-12-1302. Definitions
- R6-12-1303. Diversion of Benefits to Wage Pool
- R6-12-1304. Treatment of Income
- R6-12-1305. Supplemental Payments
- R6-12-1306. Sanctions
- R6-12-1307. Renumbered

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-101. Definitions

The following definitions apply to this Chapter:

1. "Adequate notice" means a notice which explains the action the Department intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights, and right to benefits pending appeal, and which is mailed before the effective date of the action.
2. "Adequate and timely notice" means a written notice which contains the information required for an adequate notice and is sent within the time-frame provided for a timely notice.
3. "Adverse action" means 1 of the Department actions described in R6-12-1001(A), including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are paid.
4. "AHCCCS" or "Arizona Health Care Cost Containment System" means a system established pursuant to A.R.S. § 36-2901 *et seq.* which consists of contracts with providers for the provision of hospitalization and medical care coverage to members.
5. "AHCCCSA" or "The Arizona Health Care Cost Containment System Administration" means the Arizona state government agency which administers the AHCCCS program.
6. "Appellant" means an applicant or recipient of assistance who is appealing an adverse action by the Department.
7. "Applicant" means a person who has directly, or through an authorized representative or responsible person, filed an application for CA with the Department.
8. "Assistance unit" or "unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount.
9. "Available income or resources" means income or resources which are actually available for use of the assistance unit, and income or resources in which the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.
10. "Benefit month" means the calendar month for which benefits are paid based upon the assistance unit's projected income and anticipated circumstances for that same month.
11. "Benefit payment" means a monetary amount which the Department pays to an assistance unit for a particular benefit month.
12. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral-related expenses as evidenced by a written contract.
13. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
14. "CA" means Cash Assistance, a program administered by the Department which provides assistance to needy families with dependent children pursuant to 42 U.S.C. 601 *et seq.*
15. "Calendar quarter" means 1 of the 4 consecutive 3-month periods of a calendar year beginning with either January 1, April 1, July 1, or October 1.
16. "Calendar year" means a period of 12 consecutive months beginning with January 1 and ending with December 31.
17. "Caretaker relative" means a parent or relative who maintains a family setting for a dependent child and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.
18. "Child welfare agency" means any agency or institution as defined at A.R.S. § 8-501(A)(1).
19. "Collateral contact" means an individual, agency, or organization the Department contacts to confirm information provided by the applicant or recipient.
20. "Countable income" means the amount of gross income of the assistance unit which the Department considers to determine eligibility and compute a benefit amount.
21. "Day" means a calendar day unless otherwise specified.
22. "Department" means the Arizona Department of Economic Security.
23. "Dependent child" means a child as defined at A.R.S. § 46-101(5).
24. "Disregards" means those deductions which the Department applies to the assistance unit's gross countable income to determine eligibility and benefit amount.
25. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
26. "Earned income" means any gain to the assistance unit as defined in 45 CFR 233.20(a)(6)(iii) through (viii) (October 1994) which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
27. "Eligibility determination date" means the date the Department makes the decision described in R6-12-706 and issues the eligibility decision notice.
28. "EMPOWER project" means the Arizona welfare reform project approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER project, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the CA, Food Stamp, and JOBS programs.
29. "Encumbrance" means a legal debt.
30. "Equity value" means fair market value minus encumbrances.
31. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing financial and food stamp assistance to eligible persons and determining medical eligibility.
32. "Fair consideration" means an amount which reasonably represents the fair market value of transferred property.
33. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.
34. "Foster care maintenance payment" means a monetary amount which the Department pays to a foster parent for the expenses of a child in foster care.

35. "Foster child" means a child placed in a foster home or a child welfare agency.
36. "Homebound" means a person who is confined to the home because of physical or mental incapacity.
37. "Homestead property" means a home owned and occupied by an applicant or recipient, or which is co-owned and occupied by a separated or divorced spouse of an applicant or recipient.
38. "Income" means earned and unearned income combined.
39. "JOBS" or "Job Opportunities and Basic Skills Training Program" means the program authorized by 42 U.S.C. 681 - 687 and A.R.S. §§ 46-299, which assists CA recipients to prepare for, obtain, and retain employment.
40. "Job Corps" means the program authorized by 29 U.S.C. 1691 *et seq.* which provides education, training, intensive counseling, and related assistance to economically disadvantaged young men and women.
41. "JTPA" or "Job Training Partnership Act" means the program authorized by 29 U.S.C. 1501 *et seq.* which prepares youth and unskilled adults for entry into the labor force and affords special job training.
42. "Liquid asset" means cash or another financial instrument which is readily convertible to cash.
43. "Local office" means a FAA office which is designated as the office in which CA applications and other documents are filed with the Department and in which eligibility and benefit amounts are determined.
44. "Lump sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
45. "Mailing date", when used in reference to a document sent 1st class, postage prepaid, through the United States mail, means the date:
 - a. Shown on the postmark;
 - b. Shown on the postage meter mark of the envelope, if there is no postmark; or
 - c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
46. "Mandatory member" or "mandatory member of the assistance unit" means any natural or adoptive parent, and any blood-related or adoptive sibling, of a dependent child, if the parent or sibling lives in the same household with the dependent child and is otherwise eligible for assistance.
47. "Need standard" means the money value the state assigns to the basic and special needs deemed essential for applicants and recipients.
48. "Net income" means the assistance unit's total gross income, less applicable disregards, which is used to compute the benefit amount.
49. "NPCR" or "Non-parent caretaker relative" means a person, other than a parent, who is related by blood, marriage, or lawful adoption to the dependent child and who maintains a family setting for the dependent child and exercises responsibility for the day-to-day care of the dependent child.
50. "Noncitizen" means a person who is not a United States citizen.
51. "Noncitizen sponsor", which is sometimes referred to as a "sponsor", means an organization which, or a person who, has executed an affidavit of support or similar agreement on behalf of a noncitizen who is not the child or spouse of the sponsor, as a condition of the noncitizen's entry into the United States.
52. "Notice date" means the date which appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
53. "OSI" or "Office of Special Investigations" means the Department office to which FAA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
54. "Overpayment" means a financial assistance payment received by or for an assistance unit for a benefit month and which exceeds the amount to which the unit was lawfully entitled.
55. "Parent" means the lawful mother or father of a dependent child and includes only a birth or adoptive parent and excludes a stepparent.
56. "Participating in a strike" means engaging in any activity as defined at 29 U.S.C. 142(2), as amended through June 23, 1947, which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
57. "Party" means the Department and the applicant or recipient.
58. "Payment standard" means the amount of money from which net income is subtracted to calculate the monthly benefit amount.
59. "Physical or mental incapacity" means a physical or mental impairment which substantially precludes a parent from providing for the support or care of the parent's child.
60. "PI" means the Primary Informant, who is the individual who signs the Application for Assistance; in TPEP assistance units the PI is the PWEP.
61. "PRA" means the Personal Responsibility Agreement, which is a document listing the obligations of a household that applies for and receives CA.
62. "Projected income" means an estimate of income that an applicant or recipient reasonably expects to receive in a specific month, the actual amount of which is unknown but which is estimated from available and reliable information.
63. "Prospective eligibility" means an eligibility determination for a benefit month based on income and other circumstances as they actually exist, and are anticipated to exist, in that same month.
64. "Putative father" means a male person whom a birth mother has named as father of her child, but whose paternity has not been established as a matter of law.
65. "Prospective budgeting" means the computation of a benefit amount for a particular benefit month based on the Department's projected income and circumstances as they actually exist and are anticipated to exist for that same month.
66. "PRWORA" means the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).
67. "PWEP" or "Primary wage earning parent" means the parent in a 2-parent family who earned the greater amount of income in the 24-month period immediately preceding the month in which an application for benefits is filed.
68. "Recipient" means a person who is a member of an assistance unit.

Department of Economic Security - Cash Assistance Program

69. "Request for hearing" means a clear written expression by an applicant or recipient, or such person's representative, indicating a desire to present the case or issue to a higher authority.
70. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).
71. "Resources" means the assistance unit's real and personal property.
72. "Review" means a review of all factors affecting an assistance unit's eligibility and benefit amount.
73. "Spendthrift restriction" means a legal restriction on the use of a resource which prevents a payee or beneficiary from alienating the resource.
74. "Sponsored noncitizen" means a noncitizen whose entry into the United States was sponsored by a person who, or an organization which, executed an affidavit of support or similar agreement on behalf of the noncitizen alien, who is not a child or spouse of the sponsor.
75. "Student" means a person who is attending a school, college, or university, or who is enrolled in a course of vocational or technical training designed to prepare the trainee for gainful employment, and includes a participant in Job Corps.
76. "Suitable work" means work in a recognized occupation for which a person is reasonably qualified.
77. "Support" means child support, alimony, spousal maintenance, or medical support.
78. "Supportive Services unit" means an assistance unit which is eligible for all benefits, except a monthly cash amount, that a CA assistance unit receives.
79. "SVES" means the State Verification and Exchange System which is a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage, and Unemployment Insurance Benefit data files.
80. "TANF" means Temporary Assistance for Needy Families, which is a program administered by the Department to provide assistance to needy families with dependent children pursuant to 42 U.S.C. 601 *et seq.*
81. "Timely notice" means a notice which the Department mails at least 10 days before the date on which the action described in the notice will occur or take effect or, in circumstances of probable fraud, at least 5 calendar days in advance of the date such action is effective.
82. "Title IV-A of the Social Security Act" means 42 U.S.C. 601 - 617, the statutes establishing the CA program.
83. "Title IV-E of the Social Security Act" means 42 U.S.C. 670 - 679, the statutes establishing the foster care and adoption assistance programs.
84. "TPEP" or "2-Parent Employment Program" means the CA program which provides assistance for needy dependent children who are deprived of parental support because the primary wage-earning parent is unemployed.
85. "Underpayment" means a monthly benefit payment which is less than the amount for which the assistance unit is eligible, or the failure to issue a benefit payment when such payment should have been issued.
86. "Vendor payment" means a payment which a person or organization who is not a member of an assistance unit makes to a 3rd-party vendor to cover assistance unit expenses.
87. "Voluntary Quit/Reduction in Work Effort" is an action to willingly quit a job or reduce work effort without good cause.
88. "Warrant" means a payment instrument drawn on the Arizona State Treasury authorizing payment of a particular sum of money to an CA recipient.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-102. Confidentiality

- A. Personally identifiable information.
 1. All personally identifiable information concerning an applicant or recipient in the possession of the Department is confidential and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
 2. Personally identifiable information includes:
 - a. Name, address, and telephone number;
 - b. Social security number and date of birth;
 - c. Unique identifying numbers such as a driver's license number;
 - d. Photographs;
 - e. Information related to social and economic conditions or circumstances;
 - f. Medical data, including diagnosis and past history of disease or disability; and
 - g. Any other information which is reasonably likely to permit another person to readily identify the subject of the information.
- B. Release of information to applicants and recipients.
 1. An applicant or recipient may review the contents of his or her own eligibility file at any time during the Department's regular business hours, provided that a Department employee is present during the review.
 2. A dependent child may review a case file in which the child is included as a recipient, only with the written permission of the child's parent, or legal guardian or custodian.
 3. The Department may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information, until the Department contacts the person's physician and obtains an opinion that the Department can safely release the information.
- C. Release of information to authorized persons and representatives. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to another person or representative by executing a release form containing the following information:
 1. The specific information the Department is authorized to release;
 2. The name of the person to whom the Department may release information;
 3. The duration of the release, if limited; and
 4. Signature and date.
- D. Release to persons and agencies for official purposes.

1. An official purpose is 1 directly related to the administration of a public assistance program and includes:
 - a. Establishing eligibility;
 - b. Determining the amount of an assistance grant;
 - c. Providing services to applicants and recipients, including child support enforcement services;
 - d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
 - e. Evaluating, analyzing, overseeing, and auditing program operations.
2. The Department may release confidential information to the following persons and agencies to the extent required for official purposes:
 - a. Department employees;
 - b. Employees of the Social Security Administration;
 - c. Public assistance agencies of any other state;
 - d. Persons connected with the administration of child support enforcement activities;
 - e. Arizona Attorney General's Office;
 - f. Persons connected with the administration of federal or federally assisted programs which provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
 - g. Government auditors when the audits are conducted in connection with the administration of any assistance program by a governmental entity which is authorized by law to conduct such audits;
 - h. AHCCCSA, for eligibility purposes;
 - i. Law enforcement officials for an investigation, prosecution, or civil or criminal proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program; and
 - j. The Internal Revenue Service for the purpose of identifying improperly claimed tax exemptions by the absent parent of a child supported by CA.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-103. Case Record

- A. The Department shall maintain a case record for every applicant for or recipient of assistance.
- B. Except as otherwise provided in subsections (C) and (D) below, the Department shall retain the case record for a period of 3 years after the last date on which the applicant received an adverse determination of eligibility or the recipient last received a benefit payment.
- C. The Department shall retain a case record which contains an unpaid overpayment until:
 1. The overpayment is paid in full, or
 2. The assistance unit is no longer obligated to repay the overpayment.
- D. The Department shall retain a case record which includes a person determined to have committed an intentional program violation pursuant to Article 12 until:
 1. The overpayment is paid in full, and
 2. The disqualification sanction is satisfied.
- E. The case record shall contain all documentation collected or prepared by the Department in evaluating and determining eligibility and benefit amount.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-104. Manuals

Each FAA office shall maintain and keep available for public inspection and copying during regular business hours, a copy of the CA program manual.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-105. EMPOWER: Random Assignment Evaluation

- A. The Department shall randomly assign CA applicants and recipients who are served by the Glendale, Peoria, 67th Avenue, and Chinle FAA local offices into experimental, non-experimental, and control groups for an evaluation of the EMPOWER project modifications approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315.
- B. The control group shall consist of at least 1,500 CA cases which are active on November 1, 1995, and at least 1,500 new CA applicant cases which are approved thereafter.
- C. The experimental and non-experimental groups are subject to the EMPOWER project provisions. The experimental and control groups will be used to evaluate the EMPOWER project.
- D. The following rules do not apply to an applicant or recipient who is assigned to the control group:
 1. R6-12-308,
 2. R6-12-315,
 3. R6-12-318,
 4. R6-12-319, and
 5. R6-12-404.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 2. APPLICATION PROCESS AND PROCEDURES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for

review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-201. Application

- A.** Any person may apply for CA by filing, either in person or by mail, a Department-approved application form with any FAA office.
- B.** The application file date is the date any FAA office receives an identifiable application. An identifiable application is 1 which contains, at a minimum, the following information:
 - 1. The legible name and address of the person requesting assistance; and
 - 2. The signature, under penalty of perjury, of the applicant or the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
- C.** In addition to the identifiable information described in subsection (B), a completed application shall contain:
 - 1. The names of all persons living in the applicant's dwelling and the relationship of such persons to the applicant,
 - 2. A request to receive cash benefits which complies with the requirements of R6-12-202, and
 - 3. All other financial and non-financial eligibility information requested on the application form.
- D.** An application for CA is automatically treated as an application for AHCCCS medical benefits.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-202. Request for Benefits; Composition of the Assistance Unit

- A.** An applicant may request CA for any person living in the applicant's home.
- B.** A request for CA for a dependent child shall also include a request for benefits for the parents of the dependent child, and any siblings of the dependent child, who reside in the applicant's home.
- C.** An applicant who is the non-parent caretaker relative (NPCR) of a dependent child and who meets the requirements of R6-12-306(A)(4) may also ask to be included in the CA grant.
- D.** When 1 NPCR cares for step-siblings or children who lack any sibling relationship, the NPCR and the children shall be included in the same CA grant.
- E.** Notwithstanding any other provision of this Chapter, no person shall receive CA in more than 1 assistance unit in Arizona in any calendar month.
- F.** If a person is required to be included in more than 1 assistance unit, the Department shall consolidate the assistance units.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-203. Initial Eligibility Interview

- A.** Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant at a location which assures a reasonable amount of privacy. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.
- B.** The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
- C.** During the interview, a Department representative shall:
 - 1. Assist the applicant in completing the application form;
 - 2. Witness the signature of the applicant or the applicant's authorized representative;
 - 3. Discuss how the applicant and the other assistance unit members previously met their needs, and why they now need financial assistance;
 - 4. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the CA program, including the requirement that the applicant obtain and provide a social security number to the Department;
 - b. Any additional verification information as prescribed in R6-12-205(A) which the applicant must provide for the Department to conclude the eligibility evaluation;
 - c. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES);
 - d. The coverage and scope of the CA program, and related services which may be available to the applicant, including child care benefits;
 - e. The applicant's rights, including the right to appeal adverse action;
 - f. The AHCCCS enrollment process;
 - g. The requirement to report all changes within 10 calendar days from the date the change becomes known;
 - h. The family planning services available through AHCCCS health plans;
 - 5. Review the penalties for perjury and fraud, as printed on the application;
 - 6. Explain to the applicant who is a mandatory member of the assistance unit, and whom the applicant may include as an optional member;
 - 7. Review any verification information already provided;
 - 8. Explain the applicant's duties to:
 - a. Cooperate with the Division of Child Support Enforcement (DCSE) in establishing paternity and enforcing support obligations, unless the applicant can show good cause for not doing so;
 - b. Transmit to the Department any support payments the applicant receives after the date the applicant is approved to receive CA; and
 - c. Participate in the Job Opportunities and Basic Skills Training (JOBS) program, unless the applicant or recipient is determined to be exempt from such participation;

9. Photograph the applicant for identification purposes;
 10. Review all ongoing reporting requirements, and the potential sanctions for failure to make timely reports, including loss of disregards; and
 11. Inform the applicant of the opportunity to set aside funds in an individual development account as prescribed in R6-12-404 for educational or training purposes.
- D.** When the applicant misses a scheduled appointment for an interview, the Department shall schedule a 2nd interview for later that same day, or for another day, only if the applicant so requests before close of business on the day of the missed appointment.
- E.** The Department shall deny the application when the applicant fails to request a 2nd appointment as provided in subsection (D) or when the applicant misses a 2nd scheduled appointment.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-204. Disability Determination

- A.** When an assistance unit is requesting CA due to the mental or physical incapacity of a parent, as provided in R6-12-310(G), the Department shall verify the existence of the disability.
 - B.** The assistance unit shall demonstrate incapacity of a parent by providing a medical statement from a licensed physician. The statement shall include:
 1. A diagnosis of the person,
 2. A finding that the person has a physical or mental condition which prevents the person from working, and
 3. An opinion concerning the duration of unemployment or a date for re-evaluation of unemployment.
 - C.** The local FAA office shall find disability, without further medical verification, when the applicant provides evidence that:
 1. The Social Security Administration (SSA) has determined that the person is eligible for Retirement, Survivors, Disability Insurance (RSDI) benefits due to blindness or disability;
 2. The SSA has determined that the person is eligible for Supplemental Security Income (SSI) due to blindness or disability;
 3. The Veteran's Administration has determined that the person has at least a 100% disability;
 4. The person's physician has released the person from the hospital and imposed work restrictions for a specified recuperation period;
 5. The person's employer or physician has required the person to terminate employment due to the onset of a disability and the physician has specified a recuperation period;
 6. The person's physician has determined that the person is capable of employment only in a sheltered workshop, for a specified period of time, and the person is so employed; or
7. A prior certification of disability is in the person's case record and is still valid to cover the period in which assistance is requested and will be received.
- D.** The District Medical Consultant shall determine incapacity for all persons not covered under subsections (B) or (C).

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-12-205. Verification of Eligibility Information

- A.** The Department shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law, or when necessary to determine eligibility or benefit level.
- B.** The Department may verify or corroborate information by any reasonable means including:
 1. Contacting 3rd parties such as employers;
 2. Making home visits as provided in R6-12-206;
 3. Asking the applicant or recipient to provide written documentation, such as billing statements or pay stubs; and
 4. Conducting a computer data match through SVES.
- C.** The applicant or recipient has the primary responsibility for providing all required verification. The Department shall offer to assist an applicant or recipient who has difficulty in obtaining the verification and requests help.
- D.** An applicant or recipient shall provide the Department with all requested verification within 10 calendar days from the notice date of a written request for such information. When an applicant does not timely comply with a request for information, the Department shall deny the application as provided in R6-12-209(B).
- E.** The application form shall contain a notice to advise the applicant that the Department may contact 3rd parties for information. The applicant's signature on an application is deemed consent to such contact.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-206. Home Visits

- A.** The Department shall schedule a home visit:
 1. When it reasonably believes that such a visit will avoid an eligibility determination error, or
 2. To conduct an initial interview or an eligibility review when a homebound applicant or recipient so requests.
- B.** The Department shall mail the applicant or recipient written notice of a scheduled home visit at least 7 days before the date of the visit.
- C.** The Department may deny or terminate benefits if the applicant or recipient is not home for a scheduled visit for:
 1. An initial interview and has not timely rescheduled the visit pursuant to R6-12-203(D), or

Department of Economic Security - Cash Assistance Program

2. A 6-month review interview and has not timely rescheduled the visit pursuant to R6-12-210(D).
- D. The Department may conduct unscheduled visits to gather information or to verify information previously provided by an applicant or recipient. The Department shall not deny an application or terminate assistance if the applicant or recipient is not home for an unscheduled visit.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-207. Withdrawal of Application

- A. An applicant may withdraw an application at any time before the Department completes an eligibility determination by requesting a withdrawal from the Department either orally or in writing.
- B. If an applicant orally asks to withdraw an application the Department shall:
 1. Document the names of persons and type of benefits or services the applicant wishes to withdraw, and
 2. Deny the application and notify the applicant.
- C. A withdrawal is effective as of the date of application.
- D. When an application is withdrawn, an applicant must file a new application to restart the application process.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-208. Death of an Applicant

- A. If an applicant dies while the application is pending, the Department shall deny the application and inform the person responsible for the dependent child that a new application may be filed.
- B. If the new application is filed within 45 days from the date of the original application, and the child is found eligible, the Department shall pay benefits for the child from the date of the original application. If eligible, the new applicant shall receive benefits from the date of the new application.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-209. Processing the Application; Denials; Approval

- A. The Department shall complete the eligibility determination within 45 calendar days of the application file date, unless:
 1. The application is withdrawn,
 2. The application is rendered moot because the applicant has died or cannot be located, or
 3. There is a delay resulting from a Department request for additional verification information as provided in R6-12-205(D).
- B. The Department shall deny an application when the applicant fails to:
 1. Complete the application and an eligibility interview, as described in R6-12-203;

2. Submit all required verification information within 10 days of the notice date of a written request for such verification; or
 3. Cooperate during the application process as required by R6-12-302.
- C. When an assistance unit satisfies all eligibility criteria, the Department shall compute a benefit amount, approve the application, and send the applicant an approval notice. The approval notice shall include the amount of assistance and an explanation of the assistance unit's appeal rights.
 - D. The Department shall process an application for the purpose of determining medical assistance eligibility pursuant to R9-22-101 *et seq.*

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-210. Six-month Review

- A. The Department shall complete a review of all eligibility factors for each assistance unit at least once every 6 months, beginning with the 6th month following the 1st month of CA eligibility.
- B. At least 30 days prior to the 6-month review date, the Department shall mail the recipient a notice advising of the need for a review. In response to such notice, the recipient shall file a request for a 6-month review and interview by the date specified on the notice.
- C. The Department shall schedule and conduct a review interview in the same manner as an initial interview.
- D. When the recipient misses a scheduled appointment for a 6-month review interview, the Department shall schedule a 2nd interview if the recipient so requests within 10 days of the missed appointment.
- E. The Department shall terminate benefits when the recipient fails to request a 2nd appointment as prescribed in subsection (D), or when the recipient misses a 2nd scheduled appointment without good cause. Good cause shall include the following circumstances:
 1. Lack of transportation on the day of the appointment,
 2. Illness, or
 3. Serious injury or accident involving an assistance unit member.
- F. The Department shall verify the assistance unit's resources and income and any eligibility factors which have changed or are subject to change. The Department may verify other factors if Department experience suggests the need for additional verification.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in

the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-211. Reinstatement of Benefits

- A. If the Department has terminated payment of benefits to an assistance unit, the Department shall not reinstate benefits unless the recipient files a new application and has a new interview.
- B. Notwithstanding subsection (A), the Department shall reinstate benefits within 10 calendar days when:
 1. Termination was due to Department error;
 2. The Department receives a court order or administrative hearing decision mandating reinstatement; or
 3. The recipient files a request for fair hearing as provided in R6-12-1002 within 10 days of the notice date of the termination notice, unless the request is for continuance of benefits past the 24-month limit set forth at R6-12-317, or the 6-month limit set forth at R6-12-611.
- C. When the Department reinstates benefits to a recipient who missed a 6-month review due to the termination of benefits, the Department shall conduct the review at the earliest opportunity following reinstatement.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-301. Non-financial Eligibility Criteria

To qualify for CA, a person shall satisfy all applicable criteria set forth in this Article.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-302. Applicant and Recipient Responsibility

- A. An applicant for or recipient of assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The applicant or recipient shall:
 1. Give the Department complete and truthful information;
 2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility or the amount

of the assistance payment within 10 days from the date the change becomes known; and

3. Comply with all the Department's procedural requirements.
- B. The Department may deny an application for assistance, reduce or terminate benefits, or change the manner of payment, if the applicant or recipient fails or refuses to cooperate without good cause. However, the Department shall not impose such sanctions for failure to comply with a procedural requirement about which the Department has not advised the applicant or recipient in writing.
- C. As a condition of eligibility, the Department shall require as a condition of eligibility the parent or NPCR to sign a Personal Responsibility Agreement when the parent or NPCR applies for benefits for a dependent child.
- D. The Department shall inform the parent or NPCR that the signature acknowledges that:
 1. The parent or NPCR is aware of and agrees to the statements in the Personal Responsibility Agreement regarding:
 - a. Preparing for and accepting employment to achieve self-sufficiency;
 - b. Ensuring school attendance by all school-age children;
 - c. Maintaining current immunizations for all dependent children; and
 - d. Cooperating with all rules and requirements of the Family Assistance, JOBS, and Child Care Administrations and of the Division of Child Support Enforcement.
 2. The parent or NPCR agrees to the statement of personal responsibility on behalf of all other current and future members of the assistance unit.
- E. The Department shall inform the parent or NPCR at the interview that failure to sign the Personal Responsibility Agreement will result in denial of CA benefits.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-303. Application for Other Potential Benefits

As a condition of eligibility, a person shall apply for all other benefits for which the person may be eligible, except SSI.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-304. Residency

- A. To qualify for CA, a person shall be an Arizona resident.
- B. An Arizona resident is a person who:
 1. Voluntarily resides and intends to make a permanent home in Arizona,
 2. Lives in Arizona at the time of making application, and
 3. Is not receiving public assistance from another state.
- C. A person terminates Arizona residency by:
 1. Leaving Arizona for more than 30 consecutive days, or

Department of Economic Security - Cash Assistance Program

2. Leaving Arizona with the intent to live elsewhere.
- D. The dependent child of a caretaker relative who is an Arizona resident is deemed an Arizona resident.
- E. The Department shall verify Arizona residency.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-305. Citizenship and Alienage

- A. To qualify for CA, a person shall be a United States citizen or a noncitizen legal alien who satisfies the requirements of PRWORA Section 431 and who meets eligibility requirements of PRWORA Section 402, not including any later amendments or editions, which are incorporated by reference and are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and the Office of the Secretary of State, 1700 West Washington, Phoenix, Arizona.
- B. The Department shall verify legal alienage by obtaining a person's alien registration documentation, or other proof of immigration registration, from the U.S. Immigration and Naturalization Service (INS), or by submitting a person's alien registration number and other related information to the INS.
- C. A sponsor's income and resources shall not be included in the eligibility determination when a lawful permanent resident noncitizen verifies 40 quarters of employment history.
- D. An ineligible noncitizen may serve as payee for the eligible members of an assistance unit, but the Department shall exclude the needs of the ineligible noncitizen from the assistance grant.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-306. Eligible Persons

- A. To qualify for CA, an otherwise eligible person shall be:
 1. A dependent child under 18 years of age;
 2. A dependent child age 18 and, as provided in R6-12-314, who is a full time student in a secondary school, or the equivalent level of vocational or technical training school, and is reasonably expected to complete such education or training before turning age 19;

3. The parent of an eligible CA child; or
4. A non-parent caretaker relative of an eligible CA child when:
 - a. The parent of the dependent child:
 - i. Does not live in the NPCR's home,
 - ii. Lives with the NPCR but is also a dependent child, or
 - iii. Lives with the NPCR but cannot function as a parent due to a physical or mental impairment;
 - b. The NPCR provides the dependent child with physical care, support, guidance, and control; and
 - c. The dependent child resides with the NPCR.
- B. If otherwise eligible, the CA assistance unit shall include the following persons who are related to a dependent child for whom the applicant requests assistance:
 1. Any natural or adoptive parent, and
 2. Any natural or adopted brother or sister.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-307. Social Security Number

- A. To qualify for CA, a person shall furnish a social security number (SSN). If a member of an assistance unit lacks an SSN, the Department shall assist the person in applying for an SSN through procedures established between the Department and the United States Social Security Administration (SSA).
- B. The Department shall obtain verification of social security numbers through contact with the SSA.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Former Section renumbered to R7-12-314; new Section R6-12-307 renumbered from R6-12-314 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-308. Family Benefit Cap

- A. The Department shall not provide CA to a child except as provided in subsection (C), born during a month when:
 1. The parent or non-parent caretaker relative is receiving CA or supportive services, or
 2. The child is born to a mandatory member of a CA unit who is ineligible for CA benefits due to noncompliance or failure to meet an eligibility requirement.

- B.** A child born during any period of time specified in subsection (A) is ineligible for CA for a 60-consecutive-calendar-month period.
- C.** An assistance unit may receive CA benefits for a child that would otherwise be excluded under subsection (A) if:
1. The child is born within 10 calendar months of an initial CA eligibility determination;
 2. The parent has not received CA or supportive services for a minimum of 12 consecutive months, and the child is born:
 - a. No earlier than the 22nd month after the parent left CA; and
 - b. No later than the end of the 10th month after the parent returns to CA;
 3. The child is the firstborn of a dependent child who is included in a CA or supportive services assistance unit; or
 4. The child is born as a result of an act of sexual assault or incest and the applicant or recipient meets the following requirements:
 - a. The applicant or recipient shall file a written statement with the Department to certify that a child was conceived as a result of sexual assault or incest and shall provide supporting verification.
 - b. Acceptable verification includes:
 - i. Medical or law enforcement records in cases of sexual assault or incest, or
 - ii. Birth certificate or Bureau of Vital Statistics Records in cases of incest.
 - c. The Department shall accept the written statement of the applicant or recipient as verification of sexual assault or incest when the applicant or recipient is unable to provide evidence to support the claim of sexual assault or incest.
 - d. The FAA shall report allegations of sexual assault or incest to the Office of Special Investigations and, if the parent is a minor, to Child Protective Services. The Department shall not disclose the name, address, and any information concerning the sexual assault or incest to any person except those persons who require the information to investigate the allegations.
- D.** An assistance unit which includes a child who is ineligible due to the provisions of this Section may earn income up to the incremental benefit increase the assistance unit would otherwise receive for the ineligible child without any adverse affect on eligibility or benefit level. The Department shall disregard such income.
1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible child included in the benefit computation and the benefit amount with the needs of the ineligible child excluded from the benefit computation.
 2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.
- E.** The Department shall include a child who is ineligible for CA due to the provisions of this Section in the assistance unit's standard of need and shall count the income and resources of the ineligible child available to the assistance unit.
- F.** A child who is ineligible for CA due solely to the provisions of this Section may receive the following services, if otherwise eligible:
1. AHCCCS,
 2. JOBS,
 3. Child care, and
 4. Any other program or service for which CA recipients categorically qualify.
- G.** A parent or NPCR may receive CA for himself or herself when the only dependent child in the home is ineligible for assistance due to the provisions of this Section.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-309. Relationship

- A.** To qualify for CA, a dependent child shall reside with at least 1 of the following specified relatives:
1. A parent;
 2. A stepmother, stepfather, stepbrother, or stepsister;
 3. A person who is within the 5th degree of kinship to the dependent child, including: grandmother, grandfather, brother, sister, uncle, aunt, 1st cousin, nephew, niece, persons of preceding generations as denoted by prefixes "grand", "great", or "great-great", great-great-great grandparents, and 1st cousins once removed; or
 4. A spouse of any person named in the above groups, even if the marriage has been terminated by death or divorce.
- B.** The Department shall not determine a child or NPCR ineligible solely for any of the following reasons:
1. The dependent child is under the jurisdiction of a court;
 2. An agency or individual unrelated to the child has legal custody of the child;
 3. The dependent child, or the child's parent or NPCR, is temporarily absent from the child's home because:
 - a. The child is making a court-ordered visit to a non-custodial parent for a period not to exceed 3 consecutive months;
 - b. The child is visiting a parent who has a legal order awarding joint custody of the child, and the child resides with the parent who is part of the child's assistance unit for the entire calendar month;
 - c. The child is living in a Department-licensed shelter which does not receive funding under Title IV-A or IV-E of the Social Security Act, and the child is expected to return to the home within 30 days of issuance of the 1st benefit payment;
 - d. During the month for which benefits are sought, the child is entering or leaving foster care funded by other than Title IV-E of the Social Security Act;
 - e. The child is temporarily hospitalized;
 - f. The child is visiting friends or other relatives for a period not to exceed 3 consecutive months; or
 - g. The child is attending school but returns home at least once a year.
- C.** The Department shall verify the requisite degree of relationship between the child and the child's parent or NPCR.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption

Department of Economic Security - Cash Assistance Program

from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-310. Deprivation

- A.** No child shall receive CA unless the child is deprived of parental support or care due to the continued absence, death, incapacity, or unemployment of the child's parent.
- B.** A child suffers deprivation by continued absence when the following 3 conditions are met:
 - 1. The child's natural or adoptive parent is out of the home for a minimum of 30 continuous days;
 - 2. The absence interrupts or terminates the parent's ability to provide maintenance, physical care, or guidance to the child; and
 - 3. The duration of the absence prevents the child from relying on the absent parent for support or care.
- C.** When the conditions listed in subsection (B) are met, the situations listed in this subsection may constitute deprivation by continued absence.
 - 1. A parent is absent due to involuntary hospitalization, incarceration, or deportation.
 - 2. A parent is a convicted offender who is living in the home while serving a sentence of unpaid public or community service; however, such parent shall not be considered part of the assistance unit for computation of the grant. The Department shall consider the parent to be out of the home for the purpose of deprivation.
 - 3. A single parent has adopted a child.
 - 4. The child's mother and putative father both dispute paternity, and there is no documentation to substantiate paternity.
 - 5. The parents have joint legal or physical custody of the child, but the child resides with 1 parent more than 50% of the time.
- D.** When a child satisfies the conditions set forth in subsection (B), the following circumstances shall not automatically preclude a finding of deprivation:
 - 1. A stepparent, substitute parent, parental co-habitant, or person other than the child's parent resides in the child's home;
 - 2. The child's home is considered unsuitable because of neglect, abuse, or exploitation;
 - 3. The parent or NPCR refuses to cooperate with the Department regarding child support enforcement or collection activities;
 - 4. The absent parent visits the child; or
 - 5. The mother and father of the child have some form of ongoing contact or relationship.
- E.** The circumstances listed in this subsection do not constitute deprivation by continued absence.
 - 1. The parent is voluntarily absent to visit friends or relatives, to seek employment, to maintain a job, to attend school or training, so long as the parent in the home and the absent parent do not regard themselves as separated.
 - 2. The parent is absent solely to serve active military duty.
 - 3. The parents maintain separate dwellings but consider themselves part of a single home or family unit.

- 4. One parent is deliberately absent from home in order to qualify the remaining family members for benefits.
- F.** A child is deprived if either parent of the child is deceased and the child has not been adopted. The applicant or recipient shall provide the Department with documentation verifying a death.
- G.** A child is deprived if either parent has a physical or mental defect, illness, or impairment that:
 - 1. Substantially decreases or eliminates the parent's ability to support or care for the child, and
 - 2. Is expected to last for a minimum of 30 continuous days.
- H.** A child is deprived when the primary wage earning parent is unemployed if the assistance unit meets all the requirements set forth in R6-12-609.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-311. Assignment of Support Rights; Cooperation

- A.** To qualify for CA, an applicant shall assign to the Department all rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving CA, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.
- B.** A refusal to execute such an assignment is a refusal to complete the application and shall result in denial of the CA application.
- C.** An applicant or recipient shall cooperate with the Department to obtain support owing to the applicant or recipient, unless there is good cause for noncooperation, as described in R6-12-312.
- D.** After being approved for CA, the recipient shall transmit all monetary support received to the Department.
- E.** At the time of the initial interview and at all review interviews, the Department shall explain:
 - 1. The applicant's duty of cooperation,
 - 2. Good cause and how to establish it,
 - 3. The duty to send the Department any support the assistance unit members receive, and
 - 4. The consequences for breach of the duties set forth in this Section.
- F.** Cooperation shall include the actions listed in this subsection.
 - 1. Identifying and locating the parent of a child for whom CA is requested.
 - 2. Establishing the paternity of a child born out-of-wedlock, for whom CA is requested.
 - a. The applicant shall sign and complete an affidavit of paternity.
 - b. The mother and father of a child may voluntarily acknowledge paternity in a signed, notarized statement.
 - 3. Obtaining support payments, or other payments or property due the applicant or recipient for the benefit of the child.

4. Appearing at a child support enforcement office when requested, to provide oral or written information or documentary evidence known to, possessed by, or reasonably obtainable by the applicant or recipient.
 5. Appearing as a witness at a judicial or administrative hearing or proceeding when requested.
 6. Providing information, or attesting to the lack of information, when requested.
 7. Paying to the Department any support payments received from the absent parent after the assignment of rights pursuant to subsection (A) has been made.
- G.** If the applicant or recipient fails to cooperate as required by subsection (F) without good cause, the Department shall impose the penalties provided under R6-12-316.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-312. Good Cause for Non-cooperation with Child Support Enforcement

- A.** An applicant or recipient may establish good cause for non-cooperation with the Department. Good cause shall exist when:
1. Cooperation is reasonably likely to result in physical or emotional harm to the dependent child, parent in the home, or the NPCR, based on the factors identified in subsection (B);
 2. Legal proceedings for adoption of the dependent child are pending before a court;
 3. A public or private adoption entity is counseling the applicant regarding release of the dependent child for adoption, and such counseling has occurred for less than 3 months; or
 4. The dependent child was conceived as a result of incest or rape.
- B.** As used in subsection (A)(1):
1. Physical harm means an impairment of the human body of a serious nature.
 2. Emotional harm means an impairment that substantially affects the individual's ability to function.
- C.** In determining whether emotional harm will result for the purpose of subsection (A)(1), the Department shall consider:
1. The emotional state and psychological history of the person likely to suffer emotional harm,
 2. The degree of cooperation required,
 3. The extent of the individual's involvement in any cooperative efforts, and
 4. The intensity and probable duration of the emotional impairment.
- D.** An applicant or recipient shall provide evidence to verify good cause within 20 days of filing a claim of good cause, or upon approval of the application, whichever last occurs. If the applicant or recipient can establish difficulty in obtaining verification, the Department may extend this time limit for up to 30 days or longer.

- E.** Acceptable verification shall be documentation which establishes the claim of good cause by a preponderance of evidence and may include:
1. Birth certificate or Bureau of Vital Statistics Records in cases of incest;
 2. Medical or law enforcement records in cases of sexual assault or incest;
 3. Court records or other legal documents in cases of pending adoptions;
 4. A written statement from a private or public adoption entity in cases of adoption counseling;
 5. Court, medical, criminal, Child Protective Services, psychological, social services, or law enforcement records, in cases of physical or emotional harm; and
 6. Sworn statements from friends, neighbors, clergy, or other persons with personal knowledge of circumstances that would substantiate a claim of good cause.
- F.** If the applicant or recipient is unable to provide the verification specified in subsection (E) above, the applicant or recipient shall furnish information which permits the Department's Office of Special Investigations to investigate the good cause circumstances.
- G.** The Department shall not deny, delay, or discontinue assistance pending a determination of good cause.
- H.** The Department shall determine whether or not good cause exists within 45 days from the date the applicant or recipient makes the good cause claim. The Department may extend this time limit if additional time is required to verify the claim.
- I.** If the Department finds that good cause does not exist, the applicant or recipient shall cooperate with the requirements of R6-12-311(F) within 10 days following the date the Department notifies the applicant or recipient of the good cause decision.
- J.** The Department shall redetermine a claim of good cause;
1. At each 6-month review, and
 2. When circumstances change such that good cause no longer exists.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-313. Participation in JOBS; Exemptions; Good Cause Exceptions

- A.** As a condition of eligibility, a recipient of CA shall participate in the Job Opportunities and Basic Skills Training Program (JOBS) as prescribed in A.A.C. R6-10-101 through R6-10-121, unless FAA determines that the person is exempt.
- B.** The following persons are exempt from participation
1. A child who is under age 16, except for a custodial parent or pregnant girl age 13 through age 15 who lacks a high school diploma, or its equivalent, and is not enrolled in high school or an equivalent course of instruction;
 2. Notwithstanding subsection (B)(1) above, a custodial parent or pregnant girl under age 16 who is assigned to the control group as prescribed in R6-12-105 is exempt;

3. A child who is age 16 or age 17, or age 18 if reasonably expected to complete school before reaching age 19, and a full-time student at an elementary, secondary, vocational or technical school, so long as the educational or training program was not assigned as a JOBS activity;
 4. A person who is currently employed at least 30 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days; any interruption in such employment shall not exceed 10 days; and
 5. A Native American tribal member who resides in an area covered by a Tribal JOBS program.
- C. Exempt status shall terminate when the condition giving rise to the exemption terminates.
- D. If a person fails or refuses to participate in JOBS without good cause, the Department shall impose the penalties specified in R6-12-316.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-314. School Attendance

- A. As used in R6-12-306(A)(2), full-time school attendance means:
1. For high school, attendance which the school defines as full time;
 2. For a trade or technical school involving shop practice, 30 hours per week; and
 3. For a trade or technical school involving no shop practice, 25 hours per week.
- B. The Department shall verify school attendance through school records establishing full-time status and, for 18-year olds, expected date of graduation.
- C. The Department shall require each parent or NPCR to verify either full-time school attendance by the child or full-time home schooling of the child when the parent or NPCR applies for or receives CA on behalf of a dependent child.
- D. Acceptable verification shall include:
1. The parent or NPCR's written statement,
 2. A statement from the school, or
 3. A statement from the County Department of Education.
- E. If a parent or NPCR fails to verify compliance with the school attendance requirements in this subsection, the Department shall impose the penalties specified in R6-12-316.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Former Section R6-12-314 renumbered to R7-12-307; new Section R7-12-314 renumbered from R7-12-307 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, §

74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-315. Immunization

- A. The Department shall require each parent or NPCR to verify that the child is immunized, when the parent or NPCR applies for or receives CA on behalf of a dependent child.
- B. The Department shall require this verification at the initial interview and at each review. Acceptable verification shall include:
1. The parent or NPCR's written statement; or
 2. A written statement from a physician, hospital, or clinic.
- C. When the parent or NPCR is unable to verify the child's immunizations at the initial interview, the Department shall inform the parent or NPCR that verification of the child's immunization will be required at the next review.
- D. When a parent or NPCR is unable to verify the child's immunization at the review, the Department shall impose the progressive sanction penalties as specified in R6-12-316.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Section R6-12-315 renumbered to R6-12-318; new Section R6-12-315 adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-316. Sanctions for Noncompliance

- A. The Department shall notify the assistance unit of benefit reduction or case closure when:
1. Benefits will be reduced or the case closed because of noncompliance with the requirements of R6-12-311, R6-12-312, R6-12-313(C), and R6-12-314; and
 2. The assistance unit's benefits are not currently reduced because of sanctions.
- B. The notice shall include the following information:
1. A brief statement of the progressive sanction policy as follows:
 - a. For the 1st sanction, the Department will reduce cash benefits by 25% for at least 1 month;
 - b. Unless all members are in compliance by the end of the sanction month, the Department will impose another sanction.
 - c. For the 2nd sanction, the Department will reduce cash benefits by 50% for at least 1 month.
 - d. For the 3rd and subsequent sanctions, the Department will close the case and it must remain closed for at least 1 month;
 2. The month the sanction will be effective; and
 3. The name and telephone number of the person to contact for information on what the noncompliant member must do to comply.

- C. The Department shall impose the sanction effective for the 1st possible benefit month, allowing for 10-day notice of adverse action.
- D. The Department shall not impose the above penalties on TPEP assistance units but shall follow the steps below:
 - 1. The Department shall notify the TPEP assistance unit of benefit withholding or case closure when:
 - a. Benefits will be withheld or the case closed because of noncompliance with the requirements of R6-12-311, R6-12-312, R6-12-313(C), and R6-12-314; and
 - b. The assistance unit's benefits are not currently being withheld.
 - 2. The Department shall notify the Assistance unit that:
 - a. The TPEP benefit checks will be withheld until the noncompliant person has completed a new work cycle in compliance;
 - b. The name and telephone number of the person to contact for information on how to comply;
 - c. That when 3 checks have been withheld in any 6-month period, the Department will close the TPEP case.
- E. For sanctioned assistance units in the Control Group only, the Department shall:
 - 1. Restore cash benefits to 100% when:
 - a. The assistance unit verifies compliance with JOBS or DCSE prior to the effective date of the sanction, and
 - b. The assistance unit currently has no prior sanction months.
 - 2. Impose the next sanction received by the assistance unit at the 2nd (50%) level.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Section R6-12-316 renumbered to R6-12-319; new
 Section R6-12-316 adopted effective July 31,
 1997, under an exemption from the provisions of A.R.S.
 Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: *The following new Section was renumbered and a new Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.*

R6-12-317. Voluntary Quit/Reduction in Work Effort

- A. The Department shall disqualify the member or the household as described in R6-12-317(B) and (C) when a member of an assistance unit, within 60 days prior to the date of the application or any time thereafter, voluntarily and without good cause:
 - 1. Terminates employment from a job in which the individual was:
 - a. Employed at least 20 hours a week,
 - b. Earning weekly income equal to the then current minimum wage multiplied by 20;
 - 2. Reduces the number of hours worked each week from 30 or more to less than 30; or
 - 3. Participates in a strike against the government, when the member is an employee of the local, state, or federal government.
- B. When the member is the PI of the assistance unit, the Department shall close the case. The assistance unit of which the member remains the PI is ineligible for CA benefits for the minimum period specified in R6-12-317(D) or until the assistance unit reapplies, whichever is longer.
- C. When the member is not the PI of the assistance unit, the Department in determining eligibility and benefit level for the assistance unit for the minimum period specified in R6-12-317(D) or until the assistance unit reapplies, whichever is longer, shall:
 - 1. Exclude the needs of the member; and
 - 2. Include the otherwise countable income, resources, and expenses of the member.
- D. The minimum disqualification periods are:
 - 1. For the 1st offense, 1 month;
 - 2. For the 2nd offense, 3 months; and
 - 3. For the 3rd and subsequent offenses, 6 months.
- E. The Voluntary Quit/Reduction in Work Effort disqualification provisions shall apply to all members of the assistance unit who are not exempt from JOBS participation, as provided in R6-12-313. A member who is exempt from participation in JOBS because of employment is not exempt from the Voluntary Quit/Reduction of Work Effort provisions due to JOBS employment.
- F. Good cause for voluntarily quitting a job or reducing the number of hours worked includes:
 - 1. Circumstances beyond the member's control, such as illness of another assistance unit member requiring the presence of the member, unavailability of transportation, unanticipated emergency, unsuitability of work, or the lack of adequate child care for individuals responsible for the care of children under 12 years old;
 - 2. The member's inability to write or speak English;
 - 3. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;
 - 4. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
 - 5. Resignation by a member under age 60 who is recognized by the employer as retired;
 - 6. Employment which becomes unsuitable by not meeting the suitability of work criteria listed in subsection (F)(9) after the acceptance of employment;
 - 7. Acceptance of new employment of comparable hours and salary to the job which was quit, which, through no fault of the member, subsequently:
 - a. Does not materialize,
 - b. Results in a lay off,
 - c. Results in employment of less than 20 hours a week, or
 - d. Results in weekly earnings of less than the federal minimum wage multiplied by 20 hours,
 - 8. Leaving a job in connection with patterns of employment in which workers frequently move from 1 employer to another such as migrant farm labor or construction work;
 - 9. Employment that is unsuitable. Employment is unsuitable when the following conditions apply:
 - a. The wage offered is less than the higher of:
 - i. The federal minimum wage or the training wage, when applicable, if the employment is covered by federal regulations; or
 - ii. Eighty percent of the federal minimum wage when the employment is not covered by federal regulations;
 - b. The employment offered is on a piece-rate basis, and the average hourly yield which the employee can

Department of Economic Security - Cash Assistance Program

- reasonably be expected to earn is less than the applicable hourly wage as specified above;
- c. As a condition of employment, the employee is required to join, resign from, or refrain from joining any legitimate labor organization;
 - d. The work offered is at a site subject to strike or lock-out, unless the strike has been enjoined under the Taft-Hartley Act (Section 208 of the Labor Management Relations Act, (29 U.S.C. 178)) or an injunction issued under Section 10 of the Railway Labor Act (45 U.S.C. 160). A striker who belongs to a union may not refuse work solely because the job offered is a nonunion job;
10. An employment opportunity is unsuitable when an individual can demonstrate, or the Department finds that:
- a. The degree of risk to the individual's health and safety is unreasonable;
 - b. The individual is physically or mentally incapable of performing the assigned tasks of employment as documented by medical evidence or reliable information obtained from other sources;
 - c. The distance of employment from the member's place of residence is unreasonable, with respect to the expected wage and the time and cost of commuting;
 - i. Employment is unsuitable if the commuting time exceeds 2 hours per day, exclusive of time required to transport a child to and from a child care facility.
 - ii. Employment is unsuitable when the distance prohibits walking, and neither public nor private transportation is available.
 - d. The working hours or type of employment interferes with the individual's religious observances, convictions, or beliefs.
- other member of the household is available to provide the needed care; or
5. Is determined by JOBS Administration to be exempt because the person:
 - a. Works in a JOBSTART-subsidized placement pursuant to Article 13,
 - b. Is a victim of domestic violence.
- B.** The Department shall remove the ineligible adult from the assistance grant at the end of the 24 eligible months but shall continue to provide benefits for other eligible assistance unit members.
1. The Department shall count the income and resources of the ineligible adult available to the assistance unit.
 2. The ineligible adult may serve as the payee for the assistance unit.
- C.** The Department shall calculate the 24-month limit, and the 60-month period, beginning with the 1st day of the calendar month the recipient is 1st eligible for benefits but shall not include any month prior to November 1, 1995, in the calculation. A month in which an adult is ineligible due to noncompliance with an eligibility requirement is counted towards the 24-month limit.
- D.** The 24-month limit and 60-month period begin in the calendar month following the month the person reaches age 18.
- E.** Once the 60-month time period begins, it continues for 60 consecutive months. A subsequent 60-month period begins the 1st eligible month following expiration of a prior 60-month period.
- F.** The following shall not count against the 24-month limit:
1. A month of initial eligibility with a prorated benefit amount;
 2. A month the assistance unit is eligible but receives no payment because the benefit amount is less than \$10;
 3. A retroactive benefit for any eligible month prior to November 1, 1995; or
 4. A month for which a cancelled or expired warrant is not replaced.
- G.** An assistance unit which includes a person who is ineligible for CA due to the 24-month limit provisions of this Section may earn up to the incremental benefit amount otherwise payable for the ineligible person without any adverse affect on eligibility or benefit level. The Department shall disregard such income.
1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation.
 2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.
- H.** The Department shall conduct regular eligibility reviews as prescribed in R6-12-210 for an assistance unit which includes an adult who is ineligible because of the 24-month limit.
- I.** A person who is ineligible for CA due to the 24-month limit may receive the following services, if otherwise eligible:
1. AHCCCS,
 2. JOBS,
 3. Title IV-A child care, and
 4. Any other program or service for which a CA recipient categorically qualifies.
- J.** The Department shall provide the assistance unit with written notice of the opportunity to apply for an extension at least 30 days prior to removing an ineligible adult from the assistance grant due to the 24-month limit.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Section R6-12-317 renumbered to R6-12-320; new
 Section R6-12-317 adopted effective July 31,
 1997, under an exemption from the provisions of A.R.S.
 Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-318. Duration of Assistance

- A.** A person may receive CA benefits for no more than 24 months within any consecutive 60-month period, except that the 24-month limit shall not apply to a person who:
1. Is under 18 years of age;
 2. Is 62 years of age or older;
 3. Suffers from a physical or mental incapacity which prevents the person from engaging in employment or training as determined by a licensed physician or psychologist;
 4. Is required to remain in the home on a continuous basis to give full-time care to another member of the household who suffers from a physical or mental incapacity as determined by a licensed physician or psychologist, and no

Historical Note

New Section renumbered from R6-12-315 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-319. Extension of the 24-month Limit

- A.** A recipient may request an extension of the 24-month limit by filing a written request with the Department within 10 calendar days from the date of the notice prescribed in R6-12-318(J). The request shall include the reason for an extension. The Department shall consider the mailing date of the request to apply for an extension as the filing date.
 1. The Department shall accept an extension request filed on or before the last day of the 24th eligible month, or last day of an eligible extension month, if the recipient establishes good cause for not filing the extension application within 10 calendar days from the notice date of the opportunity to apply for an extension.
 2. For the purpose of this Section, the following circumstances shall constitute good cause:
 - a. The recipient was ill or incapacitated;
 - b. The recipient had a crisis, emergency, or death in the recipient's immediate family; or
 - c. Other similar circumstances beyond the recipient's control which prevented the recipient from filing the extension application within the 10-day period.
- B.** The Department may grant an extension of the 24-month limit if the recipient demonstrates a good faith effort to find and accept employment with gross monthly earnings which are at least equal to the incremental benefit amount otherwise payable for the ineligible adult.
- C.** To qualify for an extension, the recipient shall establish that he or she has followed a course of action throughout the period of CA eligibility which is reasonably designed to result in employment and which demonstrates a willingness to work. The Department shall determine good faith from the recipient's entire course of action and may consider the following actions as evidence of a good faith effort to secure employment:
 1. Complying with the terms of the JOBS employability plan developed for the person;
 2. Making application with employers who may reasonably be expected to have openings suitable for the person;
 3. Responding to newspaper advertisements or other job listings for work which appear suitable for the person;
 4. Applying for employment with former employers when the person terminated the employment in good standing;
 5. Registering for suitable work with the Department's Job Service, a private employment agency, or an employer's placement facility;
 6. Registering with a placement facility of a school, college, or university if one is available to the person in his or her occupation or profession;
 7. Registering and continuing follow-up checking with the person's union hiring or placement facility;
 8. Registering with a placement facility of the person's professional organization;
 9. Making application or taking examination for openings in the civil service of a governmental unit; or
 10. Other similar or comparable action which demonstrates an effective means of seeking work suitable to the person.
- D.** The recipient has the burden to prove the inability to earn income at least equal to the amount of the benefit that the recipient became ineligible to receive, despite a good faith effort to do so.
- E.** To qualify for an extension, the recipient shall:
 1. Make at least 3 contacts, as prescribed in subsection (C) above, each month throughout the period of CA eligibility; and
 2. Provide verification of the efforts taken to secure employment:
 - a. At each 6-month eligibility review, and
 - b. When an extension is requested.
- F.** In making the determination of a good faith effort to secure employment, the Department shall consider the customary methods of obtaining work in the person's usual occupation, or other work for which the person is reasonably suited, and the current condition of the local labor market.
- G.** A person is deemed to have failed to make a good faith effort to seek work if the person has willfully followed a course of action designed to discourage prospective employers from hiring the person for suitable work.
- H.** The Department shall not grant an extension to a person who:
 1. Cannot demonstrate a good faith effort to find and accept employment as prescribed in subsections (C) and (E);
 2. Refuses, without demonstrating good cause, to accept a bona fide offer of employment which would provide income at least equivalent to the portion of the CA grant for which the person is no longer eligible;
 3. Cannot demonstrate or refuses to produce a good cause reason for not accepting an offer of employment that the Department is aware has been made and which would provide income at least equivalent to the portion of the CA grant for which the person is no longer eligible;
 4. Cannot demonstrate or refuses to produce a good cause reason for voluntarily quitting a job;
 5. Is discharged from a job for reasons of misconduct as prescribed in 6 A.A.C. 3, Article 51;
 6. Cannot demonstrate or refuses to produce a good cause reason for voluntarily acting to reduce employment earnings; or
 7. Cannot demonstrate that the person has cooperated with the Department during the extension application process.
- I.** For the purpose of this Section, good cause is limited to the following circumstances which prevent the person from finding, accepting, or maintaining employment:
 1. The person is ill or incapacitated;
 2. The person could not report to the work site due to a lack of public or private transportation;
 3. The person was incarcerated or ordered to make a court appearance, and the total circumstances were beyond the person's control;
 4. The person had an emergency or death in the person's immediate family;
 5. Severe weather conditions prevented the recipient and other persons similarly situated from traveling to or participating in the employment activity;
 6. The person has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute;
 7. The person lacks available and appropriate child care; or
 8. Other similar circumstances beyond the person's control.

Department of Economic Security - Cash Assistance Program

- J. The Department shall grant an extension of eligibility for 6 months at a time, if the assistance unit continues to meet all CA eligibility requirements.

Historical Note

New Section renumbered from R6-12-316 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-320. Extension of 24-month Limit to Complete Education or Training

- A. A recipient may receive a maximum of 24-month extensions of the 24-month limit to allow the recipient to complete an education or job-training program designed to help the recipient become self-sufficient.
- B. A recipient may request an extension to complete education or training by filing a written request with the Department within 10 calendar days from the notice date of the opportunity to apply for an extension provided to the recipient. The Department shall consider the mailing date of the request to apply for an extension as the filing date.
1. The request shall include the reason for an extension.
 2. A separate request is required for each 4-month extension.
- C. In order to qualify for an extension to complete education or training:
1. The person shall participate full-time in:
 - a. A postsecondary education program of study offered by a university, college, or community college, which will result in an Associate or Bachelor's degree;
 - b. A program or course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill directly related to obtaining self-supporting employment in a recognized occupation; or
 - c. A job training or employment activity approved by JOBS which is consistent with the person's employability plan;
 2. The educational or training program must have started before the end of the 24-month period;
 3. The person must be expected to complete the education or training program during the extension periods;
 4. The person shall demonstrate successful progress toward completion of the educational or training program;
 - a. Successful progress toward completion of an educational or training program means that the person is meeting, on a periodically measured basis of less than 1 year, such as quarterly, a consistent standard of progress based upon a written policy developed by the educational institution or training program in which the person is enrolled.
 - b. Such standard includes both a qualitative measure of a person's progress, such as competency gains, Grade Point Average necessary to obtain a degree or certificate, or proficiency level, and a quantitative

measure, such as a reasonable time limit for completion of the educational or training program; and

5. The assistance unit shall continue to meet all other CA eligibility requirements.

Historical Note

New Section renumbered from R6-12-317 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 4. FINANCIAL ELIGIBILITY: RESOURCES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-401. Treatment of Resources; Limitations

- A. In determining eligibility, the Department shall include all resources available to the assistance unit, unless excluded by applicable law.
- B. An assistance unit is ineligible for CA for any month in which the unit's resources exceed \$2,000, after application of all available exclusions.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4)
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-402. Treatment of Resources by Ownership Status; Availability

- A. The Department shall consider the resources belonging to the persons listed in this subsection available to the assistance unit.
1. An assistance unit member;
 2. A mandatory member of the assistance unit who is ineligible for CA for failure to comply with an eligibility requirement;
 3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12;
 4. A stepparent who makes resources available to the assistance unit;
 5. The sponsor of a noncitizen, as provided in R6-12-603.
- B. The Department shall consider the resources of the persons listed in this subsection unavailable to the assistance unit.
1. A non-parent relative who is not included in the assistance unit;
 2. An SSI recipient, as to resources held as sole and separate property, or counted in the determination of SSI eligibility;
 3. A dependent child for whom deprivation does not exist;

4. An ineligible noncitizen sibling of a dependent child in the assistance unit;
 5. An ineligible noncitizen parent;
 6. A dependent child who is not included in the assistance unit due to receipt of adoption assistance or foster care payments under Title IV-E of the Social Security Act.
- C.** The Department shall consider ownership in determining availability of the resources to the assistance unit.
1. The sole and separate property of 1 spouse is deemed unavailable to the other spouse, unless the owner spouse makes the property available to the other spouse.
 2. Jointly owned resources, with ownership records containing the words "and" or "and/or" between the owners' names, are deemed available when all owners can be located and consent to disposal of the resource, except that such consent is not required if all owners are members of the assistance unit.
 3. Jointly owned resources, with ownership records containing the word "or" between the owners' names, are deemed available in full to each owner. When more than 1 owner is a member of an assistance unit, the equity value of the resource is counted only once.
- D.** The Department shall consider the following resources unavailable to the assistance unit:
1. Property subject to a spendthrift restriction. Such property may include:
 - a. Irrevocable trust funds;
 - b. Accounts established by the Social Security Administration, Veteran's Administration, or some other entity, which mandate that the funds in the account be used for the benefit of a person not residing with the assistance unit.
 2. Resources being disputed in divorce proceedings or in probate matters.
 3. Real property situated on a Native American reservation.
7. When the assistance unit owns real property, other than the usual residence described in subsection (A)(1) above, and is making a good faith effort to dispose of it, the equity value shall be excluded for 6 months, subject to the conditions listed in this subsection:
 - a. The applicant shall sign an agreement to:
 - i. Dispose of the property; and
 - ii. Repay the Department, from the net proceeds of disposal, the amount of any assistance the unit receives during the period of time the unit would otherwise have been ineligible because the property value exceeded resource limitations;
 - b. The amount repaid shall not exceed the net proceeds of disposal;
 - c. If the assistance unit does not dispose of the property within 6 months, the Department shall write an overpayment and the assistance unit shall repay any assistance received during that period;
 8. Any other resource specifically excluded by law.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-403. Treatment of Resources; Exclusions

- A.** The Department shall exclude the equity value of the resources listed below, as provided in this Section.
1. The usual residence of the assistance unit members;
 2. One burial plot for each member of the assistance unit;
 3. Household furnishings used by the assistance unit members in their usual place of residence, and personal effects essential to day-to-day living;
 4. Up to \$1500 of the value of 1 bona fide funeral agreement, for each member of the assistance unit;
 5. The value of 1 motor vehicle regularly used for transportation. If the unit owns more than 1 vehicle, the exclusion is applied to the vehicle with the highest equity value, and the equity value of all remaining vehicles is counted, subject to the limitations described in this Section;
 6. In addition to the exclusion described in subsection (A)(5), the Department shall exclude the value of the following vehicles:
 - a. A vehicle used to produce income; and
 - b. When the household has a member who is an SSI recipient:
 - i. The value of any vehicle in which the SSI recipient has an ownership interest; and
 - ii. The value of any vehicle used for medical treatment, employment, or transportation of a dis-

abled child, and which is excluded by SSI for that reason;

R6-12-404. Individual Development Accounts

- A.** An individual development account (IDA) is a special savings account which allows a recipient of both CA and Food Stamp Program benefits to accumulate funds to achieve educational or training goals.
- B.** Financial institutions licensed by the Arizona State Banking Department shall administer IDAs.
1. IDAs shall earn the same interest rate as is offered to other bank customers for like accounts.
 2. A financial institution may prescribe such terms and conditions relating to IDAs as are permissible under the laws of this state and federal banking law.
- C.** A member of an assistance unit that receives both CA and food stamp benefits may establish an IDA.
1. No assistance unit shall hold more than 1 IDA.
 2. A person found to have committed an intentional program violation or fraud related to the CA, food stamp, or AHCCCS programs shall not hold an IDA.
- D.** An assistance unit member who establishes an IDA shall sign a document authorizing the financial institution to release account information to the Department.
- E.** The following persons can make deposits into an IDA:
1. The account holder;
 2. A member of the account holder's assistance unit;
 3. A person who is not a member of the account holder's assistance unit; or
 4. A non-profit organization with a recognized tax exempt status under 26 U.S.C. 501(c)(3) or A.R.S. § 43-1201. A non-profit organization making deposits into an IDA:
 - a. Shall designate that such funds are intended solely for educational or training purposes, and

Department of Economic Security - Cash Assistance Program

- b. May set other terms and conditions regarding the withdrawal or use of the funds.
- F. An applicant for assistance shall not place countable income or resources into an IDA for the purpose of qualifying for CA or Food Stamp Program benefits. Any money so deposited counts as a resource.
- G. The Department shall exclude from the resource limitation set forth at R6-12-401(B) the balance held in an IDA which at any 1 time is \$9,000 or less, except that any cumulative deposits over the life of an IDA which exceed \$12,000 shall count against the resource limitation.
- H. The Department shall disregard as countable income:
 - 1. Fifty percent of any earned income of the assistance unit which is deposited into an IDA, except that the Department shall not disregard more than \$100 per month of earned income; and
 - 2. All interest earned on an IDA.
- I. An assistance unit which holds an IDA shall:
 - 1. Report to the Department all income which is deposited into an IDA or withdrawn from an IDA; and
 - 2. Submit account statements to the Department at each eligibility redetermination.
- J. A recipient of both CA and food stamp benefits may withdraw funds from an IDA for:
 - 1. Educational costs at an accredited institution of higher education; or
 - 2. Training costs for an accredited, licensed, or certified training program.
- K. As used in subsection (J), above:
 - 1. Educational and training costs are limited to:
 - a. Tuition and other mandatory fees charged to all students, or to all students within a certain curriculum;
 - b. Books;
 - c. Transportation; and
 - d. Miscellaneous personal expenses necessary to pursue education or training.
 - 2. An institution of higher education means a public or private educational institution defined at A.R.S. § 23-618.02.
 - 3. A training program means a course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill which is directly related to obtaining useful employment in a recognized occupation.
- L. Withdrawals from an IDA for purposes other than those described in subsection (K) shall count as income to the assistance unit in the month of withdrawal, unless the money was previously counted as income to the assistance unit at the time of receipt.
- M. If there is a break in CA or food stamp benefits of at least 1 full month, upon reapplication the Department shall consider any remaining monies in an IDA as countable resources and shall not disregard any future deposits into an IDA.
- N. The Department's Office of Special Investigations shall investigate allegations of fraud or abuse involving IDAs, including situations where there is evidence or reason to believe that a deposit to an IDA was made from:
 - 1. Income which was available to the assistance unit but was not reported to the Department;
 - 2. Individual contributions which should have been counted as income or child support; or
 - 3. Proceeds from illegal activities.
- O. The Department shall not disregard as income or resources any deposit made into an IDA from income sources described in subsection (N), or any deposit which is otherwise contrary to

the provisions of this Section. The Department shall establish any resulting overpayment.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-405. Resource Transfers; Limitations

- A. An applicant or recipient shall not transfer a resource with the intent to qualify or attempt to qualify for CA within 1 year prior to application or while receiving assistance, unless fair consideration was received.
- B. Except as otherwise provided in this Section, when a applicant or recipient does not receive fair consideration for a transferred resource (an improper transfer), the assistance unit shall be ineligible for CA.
 - 1. The period of ineligibility shall begin in the month in which the transaction occurred.
 - 2. The Department shall compute the duration of ineligibility by subtracting the consideration actually received, from the equity value of the transferred resource, and dividing that sum by the monthly need standard for the assistance unit. The resulting number shall be the number of months the unit is ineligible.
- C. An improper transfer shall not affect eligibility when the equity value of the transferred resource, plus the value of the unit's other available resources, does not exceed the resource limitation.
- D. The improper transfer of homestead property shall not affect eligibility if the property was transferred because the person cannot continue residing in the home for health reasons, as determined by a competent medical authority.
- E. If an applicant or recipient disposes of homestead property, the Department shall count, as a resource, all proceeds of the sale not reinvested in homestead property, when the applicant or recipient:
 - 1. Invests the proceeds in a resource other than homestead property,
 - 2. Advises the Department that such proceeds will not be reinvested in other homestead property, or
 - 3. Fails to purchase new homestead property within 90 days of the date of sale.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-406. Resource Verification

The Department shall verify all resources before determining income eligibility and benefit amount.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

ARTICLE 5. FINANCIAL ELIGIBILITY: INCOME**R6-12-501. Treatment of Income; In General**

- A.** In determining eligibility and benefit amount, the Department shall treat all income of the assistance unit in accordance with the provisions of this Article.
- B.** As used in this Section, the term "income" shall include the following, when actually received by the assistance unit:
1. Gross earned income from public or private employment, including in-kind income, before any deductions;
 2. For self-employed persons, the sum of gross business receipts minus business expenses; and
 3. Unearned income, such as benefits or assistance grants, minus any deductions to repay prior overpayments or attorneys' fees.
- C.** The Department shall consider all gross income available to the assistance unit in determining eligibility and benefit amount except for those types of income excluded under R6-12-503.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-502. Income Available to the Assistance Unit

- A.** The Department shall consider the income of the persons listed in this subsection available to the assistance unit.
1. An assistance unit member,
 2. A mandatory member of the assistance unit who is ineligible for CA for failure to comply with an eligibility requirement,
 3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12,
 4. A dependent child's parent who is excluded from the assistance unit for failure to meet an eligibility requirement,
 5. The spouse of an NPCR if the NPCR is included in the assistance unit.
- B.** The Department shall deem the income of the persons listed in this subsection available to meet the needs of the assistance unit, pursuant to the applicable deeming procedures set forth in R6-12-603, R6-12-605, R6-12-607, and R6-12-608.
1. The sponsor of a noncitizen.
 2. A dependent child's parent who is a noncitizen admitted to the United States pursuant to 8 U.S.C. 1255(a) or 1160, as amended through October 25, 1994, which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for inclusion in the assistance unit pursuant to R6-12-305(A).
 3. A stepparent who lives in the household with a dependent child but who is not included in the assistance unit.
 4. A parent of a minor parent who lives in the household with the minor parent and the dependent child.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-503. Income Exclusions

The Department shall not count the types of income listed in this Section when determining the income of an assistance unit.

1. Loans;
2. Educational grants or scholarships;
3. Income tax refunds, including any earned income tax credit;
4. Non-recurring cash gifts which do not exceed \$30, per person in any calendar quarter;
5. Cash contributions from other agencies or organizations so long as the contributions are not intended to cover items which CA is intended to cover, specifically:
 - a. Food;
 - b. Shelter, including only rent or mortgage payments;
 - c. Utilities;
 - d. Household supplies, including bedding, towels, laundry, cleaning, and paper supplies;
 - e. Public transportation fares for personal use;
 - f. Basic clothing or diapers; or
 - g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
6. The face value of food stamp coupons;
7. The value of governmental rent and housing subsidies;
8. The value of energy assistance which is provided:
 - a. Either in cash or in kind by a government agency or municipal utility, or
 - b. In kind by a private non-profit organization;
9. Vendor payments;
10. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments which are not intended as wages;
11. Earnings from high school on-the-job training programs;
12. Reimbursements for JOBS Program training-related expenses;
13. Agent Orange payments;
14. Burial benefits which are dispersed solely for burial expenses;
15. Disaster assistance provided by the Federal Disaster Relief Act, or comparable assistance provided by state or local governments, or disaster assistance organizations;
16. Foster care payments;
17. Radiation exposure compensation payments;
18. Income received from VISTA which does not exceed the state or federal minimum wage;
19. Benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
20. Reimbursements for work-related expenses which do not exceed the actual expense amount;

21. Earned income of dependent children who are students enrolled and attending school at least halftime as defined by the institution;
22. Income received from Americorp Network Program pursuant to subsection (5);
23. Any other income specifically excluded by applicable state or federal law.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-504. Special Income Provisions: Child Support, Alimony, or Spousal Maintenance

- A. The Department shall count child support, alimony, or spousal maintenance, received by a member of the assistance unit before the eligibility determination date, as income in the month received.
- B. After the eligibility determination date, and if the application is approved, the Department shall count current child support, alimony, or spousal maintenance received by the Department's Division of Child Support Enforcement (DCSE), on behalf of an assistance unit member, as income in the month received for the purpose of determining continued eligibility.
 1. Such income is attributed to the assistance unit, and added to the unit's other income, to determine if the assistance unit meets the financial eligibility criteria.
 2. If the unit continues to satisfy the financial eligibility criteria, the Department shall compute the assistance unit's benefit amount without regard to the support DCSE has collected, except that any collected funds which DCSE passes on to the assistance unit shall be treated as unearned income in the month received.
- C. After the eligibility approval date, if an assistance unit member receives child support, alimony, spousal maintenance, or medical support after assigning to the Department the right to such support, and the member fails to turn over the support to the Department, the Department shall:
 1. Count the support received directly by an assistance unit member, as provided above in subsection (A); and
 2. Sanction the caretaker relative as provided in R6-3-12-311(G) by excluding that member's needs from the computation of the assistance grant and appointing a protective payee.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not sub-

mit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-505. Special Income Provisions: Nonrecurring Lump Sum Income

When an assistance unit receives a nonrecurring lump sum payment, the Department shall consider the lump sum payment as a resource in accordance with Article 4.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-506. Determining Monthly Income

- A. For each assistance unit, the Department shall calculate monthly income using the methods described in R6-12-507.
- B. The projected income shall include income which the assistance unit has received and reasonably expects to receive in a benefit month and shall be based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and future circumstances.
- C. The Department shall include in its calculation all gross income from every source available to the assistance unit unless specifically excluded in this Article or by the federal Social Security Act.
- D. The Department shall convert income received more frequently than monthly into a monthly amount as follows:
 1. Multiply weekly amounts by 4.3,
 2. Multiply bi-weekly amounts by 2.15,
 3. Multiply semi-monthly amounts by 2.
- E. The Department shall determine a new calculation of projected income:
 1. At each review, and
 2. When there is a change in countable income.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-507. Methods to Determine Projected Monthly Income

- A. The Department shall determine projected monthly income for an assistance unit by the methods described in this Section.
- B. Averaging income.
 1. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
 2. The Department shall average income for an assistance unit which receives income:
 - a. Irregularly; or
 - b. Regularly, but from sources or in amounts which vary.
- C. Prorating income.
 1. When using this method, the Department shall average income over the period of time the income is intended to cover.

2. The Department shall prorate income for an assistance unit which receives income which is intended to cover a fixed period of time. When a person receives income pursuant to a fixed-term employment contract:
 - a. Income shall be counted in the month received, if received monthly or more often, throughout all months of the contract;
 - b. Income shall be prorated over the number of months in the contract if payment is received before or during the time work is performed, but not as specified in subsection (C)(2)(a);
 - c. Income shall be prorated over the number of months in the contract if payment is received upon completion of the work;
 - d. For CA cases which fall within subsection (C)(2)(c), applicable earned income disregards shall apply as if the prorated amounts were received in each month of the contract. The resulting amounts for each month shall then be totaled and counted in the month received as a lump sum pursuant to R6-12-504(C).
- D. Actual income.
 1. When using this method, the Department shall use the actual amount of income received in a month and shall not convert the income to a monthly amount pursuant to R6-12-506(D).
 2. The Department shall use actual income for an assistance unit which:
 - a. Receives or reasonably expects to receive less than a full month's income from a new source,
 - b. Has lost a source of income, or
 - c. Is paid daily.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-508. Income Verification

The Department shall verify all income before determining eligibility and benefit amount.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Article heading was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit this change to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this change.

ARTICLE 6. SPECIAL CA CIRCUMSTANCES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-601. Pregnant Women

- A. Upon compliance with all other eligibility criteria and procedures, a pregnant woman with no other dependent children may be eligible for CA, as though the child was already born.
- B. Only the pregnant woman may qualify for benefits under this Section.
- C. Eligibility shall begin no earlier than 3 months before the predicted month of delivery and shall end no later than 2 months after the pregnancy terminates, and following written notice of adverse action.
- D. If the child is miscarried, stillborn, or born prematurely, and the woman reports such event to the Department within 10 calendar days of the occurrence,
 1. The occurrence shall not effect the woman's original eligibility, and
 2. No overpayment shall result.
- E. Following birth of the child, the mother may apply for benefits on behalf of the child as provided in this Chapter.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-602. Caretaker Relative of SSI or Foster Care Child

- A. A parent or NPCR with only a SSI recipient child, or a child who is receiving federal, state, or local foster care maintenance payments, may be eligible for CA upon meeting the eligibility criteria specified in this Chapter, except as otherwise provided in this Section.
- B. The Department shall consider the SSI recipient child, or foster care recipient child, as an assistance unit member for purposes of qualifying the unit for CA based on need.
- C. If the assistance unit qualifies for CA pursuant to subsection (B), the Department shall not count the needs, resources, and income of the SSI recipient child, or foster care recipient child, when determining the benefit amount.
- D. Notwithstanding the provisions of R6-12-311, the parent or NPCR of a SSI recipient child, or a foster care recipient child, need not assign to the Department any rights to child support but shall assign any right to receive alimony or spousal maintenance.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-603. Sponsored Noncitizen Aliens

- A. A noncitizen who is sponsored by a public or private agency or organization shall not qualify for CA for 3 years following the date of the noncitizen's entry for permanent residence into the United States unless:
1. The agency or organization ceases to exist during the 3 years, or
 2. The noncitizen's 3-year sponsorship agreement with the agency or organization has expired.
- B. A noncitizen sponsored by an individual who seeks benefits shall obtain the cooperation of the sponsor as necessary to satisfy the eligibility criteria described in this Chapter.
- C. The Department shall count the full income and resources of a noncitizen sponsor as available to the sponsored noncitizen for 3 years from the date of the noncitizen's entry into the United States for permanent residence, according to the provisions of this Section.
- D. Subject to the provisions of Article 4 concerning treatment of resources, the Department shall count the total equity value of resources belonging to the sponsor and the sponsor's spouse, less \$1,500, as available to the sponsored noncitizen.
- E. The Department shall count the full income of the noncitizen sponsor and the sponsor's spouse as available to the noncitizen.
- F. When a person sponsors 2 or more noncitizens, the Department shall prorate income among the sponsored noncitizens.
- G. When an assistance unit includes both a sponsored noncitizen and other members, and the provisions of this Section would render the assistance unit ineligible, the Department shall determine eligibility of the other members without considering the sponsored noncitizen or the sponsor's income or resources.
- H. The sponsored noncitizen and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause, so as to make the noncitizen solely liable. Good cause includes:
1. The Department failed to inform the noncitizen or the sponsor that the information was necessary; or
 2. Extenuating personal circumstances prevented the sponsor from providing necessary information.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-604. Strikers

The Department shall determine CA eligibility during a strike period for a parent on strike, the parent's spouse, and the dependent children of the parent on strike using the striker's prestrike monthly income.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-12-605. Dependents with Ineligible IRCA Parents

The income of an ineligible noncitizen parent who is a noncitizen admitted to the United States pursuant to 8 U.S.C. 1255a or 1160, as amended through October 25, 1994, which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for assistance pursuant to R6-12-305(A), is deemed available to meet the needs of the noncitizen parent's dependent child after application of the following disregards:

1. The 1st \$90 of the noncitizen parent's gross earned income;
2. An amount equal to the CA need standard for the number of persons whom the noncitizen parent could claim as dependents, including the noncitizen parent, but excluding:
 - a. Persons receiving CA, and
 - b. Persons who would be receiving CA but for a sanction due to failure to cooperate;
3. Actual amounts paid to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support to persons not living in the noncitizen parent's home.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-606. Dependents of Foster Children

- A. The dependent child of an ineligible foster child may be eligible for CA.
- B. To determine eligibility and benefit amount, the Department shall count all income and resources of the foster child and the dependent child, other than the foster care payment, as otherwise provided in this Chapter.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in

the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-607. Stepparents

The income of a stepparent who does not receive CA or SSI is deemed available to meet the needs of a dependent child who resides with the stepparent, after application of the following disregards:

1. The 1st \$90 of the stepparent's gross earned income;
2. An amount equal to the CA need standard for the number of persons whom the stepparent could claim as dependents, including the stepparent, but excluding:
 - a. Persons receiving CA, and
 - b. Persons who would be receiving CA but for a disqualification due to IPV, fraud, or Voluntary Quit/Reduction in Work Effort;
3. Actual amounts paid to persons not living in the home whom the stepparent could claim as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support the stepparent makes to persons not living in the stepparent's home.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-608. Minor Parents

A. A minor parent means a person who:

1. Is less than 18 years of age,
2. Has never married, and
3. Is either the natural parent of a dependent child living in the same household or is pregnant and eligible for assistance under R6-12-601.

B. An assistance unit headed by a minor parent is not eligible for CA, except as provided in subsection (C).

C. A minor parent may receive assistance when:

1. The minor parent has no living or locatable:
 - a. Parent,
 - b. Legal custodian who is related to the minor parent to the degree specified at R6-12-309(A), or
 - c. Legal guardian.
2. The minor parent is legally emancipated.
 - a. A minor parent is emancipated if the minor parent's parent, adult specified relative as defined in R6-12-309(A), or legal guardian has relinquished all control and authority over the minor parent, and no longer provides financial support to the minor parent.
 - b. A minor parent shall qualify as an emancipated person if the minor parent:
 - i. Has lived apart from the parent, adult specified relative, or legal guardian for at least 1 year before the application for CA;

- ii. Has demonstrated financial independence from the parent, adult specified relative, or legal guardian for at least 1 year before the application for CA; and
- iii. Has not received CA benefits for each of the 12 consecutive months immediately preceding the month the minor parent applies for CA.
- c. The minor parent shall provide evidence to establish emancipation. Acceptable verification may include:
 - i. Rent receipts or other living arrangement statements which establish independent living apart from the parent, adult specified relative, or legal guardian;
 - ii. Income statements or income tax records which establish financial independence from the parent, adult specified relative, or legal guardian; or
 - iii. Written statements from a parent, relative, or guardian which establish the independent status of the minor parent.
3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian who is related to the minor parent to the degree specified in R6-12-309(A), or legal guardian.
 - a. The minor parent shall file a written statement of abuse or neglect with the Department.
 - i. Abuse means any behavior defined at A.R.S. § 8-546(A)(2).
 - ii. Neglect means any behavior defined at A.R.S. § 8-546(A)(6).
 - b. The written statement shall include the following information regarding the allegations of abuse or neglect:
 - i. The name of the victim;
 - ii. The name of the perpetrator;
 - iii. The dates of the alleged abuse or neglect;
 - iv. The nature of the alleged abuse or neglect; and
 - v. Whether or not other children living in the home are subject to the abuse or neglect.
 - c. The FAA shall report all allegations of abuse or neglect to Child Protective Services.
 - d. The FAA shall accept the minor parent's written statement of abuse or neglect as sufficient evidence that the health or safety of the minor parent, or minor parent's child, would be at risk pending the outcome of a Child Protective Services assessment, unless evidence to the contrary exists.
 - e. If Child Protective Services determines the allegation of abuse or neglect is valid, the minor parent and the minor parent's child may receive CA if otherwise eligible under this Chapter.
 - f. If Child Protective Services is unable to confirm or refute the allegation of abuse or neglect, the minor parent shall remain eligible based on the minor parent's written statement.
 - g. If Child Protective Services determines the allegation of abuse or neglect is invalid:
 - i. The Department shall inform the minor parent of the determination and allow the minor parent 60 days to return to the home of the parent, custodian, or legal guardian;
 - ii. The Department shall terminate CA effective the 1st month following expiration of the 60-day period; and

Department of Economic Security - Cash Assistance Program

- iii. No overpayment shall result for assistance paid based on the minor parent's written statement of alleged abuse or neglect.
 - 4. The minor parent lives with the minor parent's parent, adult specified relative as defined in R6-12-309(A), or legal guardian who either:
 - a. Is determined needy according to the income calculation procedures set forth at subsection (D); or
 - b. Has CA eligible children. If so, the Department shall combine all eligible children into 1 assistance unit. The parent, adult specified relative, or legal guardian shall serve as the payee.
- D. For the purpose of determining if a minor parent may receive assistance pursuant to subsection (C)(4)(a):
 - 1. The Department shall count all income received by the minor parent's parent, adult relative, or legal guardian, except for CA, SSI, and other sources of income excluded under R6-12-503, and shall apply the following disregards, if appropriate:
 - a. The 1st \$90 of the gross earned income of each employed parent, adult relative, or legal guardian;
 - b. An amount equal to the CA need standard for the number of persons living in the home who could be claimed as dependents for federal income tax purposes, including the minor parent's parent, adult relative, or legal guardian, but excluding:
 - i. The minor parent and the minor parent's child, and
 - ii. Persons who would be receiving CA but for a sanction due to failure to cooperate,
 - c. Actual amounts paid by the minor parent's parent, adult relative, or legal guardian to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
 - d. Actual payments of spousal maintenance or child support to persons not living in the home of the minor parent's parent, adult relative, or legal guardian.
 - 2. The amount remaining is subtracted from the CA payment standard for an assistance unit comprised of the minor parent and the minor parent's child. If the resulting figure is at least 1¢, the minor parent may receive assistance.
 - a. If the minor parent lives with a parent, the Department shall count the income available to the assistance unit when determining the benefit level.
 - b. If the minor parent lives with a non-parent caretaker relative or legal guardian, the Department shall not count the income available to the assistance unit when determining the benefit level.
- E. A minor parent, and the minor parent's child, who are ineligible for CA solely due to the provisions of this Section, may receive the following services, if otherwise eligible:
 - 1. AHCCCS,
 - 2. JOBS,
 - 3. Child Care; and
 - 4. Any other program or service for which CA recipients categorically qualify.
- F. The provisions of this Section shall not apply to a parent who is under 18 years of age ("an underage parent") and who is married or has been married except, if the underage parent resides with his or her own parent, the income of the parents of the underage parent is deemed available to the underage parent pursuant to the procedures set forth in subsection (D).
- G. The provisions of this Section shall not apply to an applicant or recipient who is assigned to the control group as prescribed

in R6-12-105, except that the income of the parents of a minor parent is deemed available to the minor parent pursuant to the procedures set forth in subsection (D).

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-609. Unemployed Parents in a 2-parent Household (TPEP)

- A. An assistance unit with a needy child deprived of parental support because the primary wage-earning parent (PWE) is unemployed shall receive CA through the 2-Parent Employment Program (TPEP) if the assistance unit meets the eligibility criteria listed in R6-12-609, R6-12-610, R6-12-611, and all other applicable CA eligibility criteria.
- B. The child's mother and father shall both reside with the child.
- C. Neither parent shall have a physical or mental defect, illness, or impairment that:
 - 1. Substantially decreases or eliminates the parent's ability to support or care for the child, and
 - 2. Is expected to last for a minimum of 30 continuous days.
- D. The PWE shall not refuse a bona fide offer of employment or training for employment without good cause, within 30 days prior to application. Good cause for refusal is limited to the following circumstances:
 - 1. The offered wage was less than minimum wage;
 - 2. The parent lacked the physical or mental ability to do the work;
 - 3. The parent's lack of public or private transportation prevented the parent from reporting to the job;
 - 4. The parent lacked suitable day care;
 - 5. The parent was personally providing care for a child under the age of 2 at the time of the refusal;
 - 6. The working conditions would involve undue risk to the parent's health or safety;
 - 7. The work lacked workers' compensation protection;
 - 8. The commuting time to and from work would normally exceed 2 hours, round trip;
 - 9. The parent could not accept the job due to illness of the parent or another family member;
 - 10. The offered position was vacant due to a labor strike or lockout;
 - 11. The parent was incarcerated or making a required court appearance;
 - 12. Inclement weather prevented the parent from accepting the job or reporting for work; or
 - 13. The parent was laid off but is expected to return to the prior place of employment within 30 days of the date of the job offer;
- E. The PWE shall have:
 - 1. Worked 6 or more quarters during the 13 calendar quarter period ending within 1 year prior to the date of application for TPEP benefits; or

2. Received, or been eligible to receive, unemployment compensation at any time during the 1-year period prior to the date of application for TPEP benefits.
- F.** An applicant or recipient who is assigned to the control group as prescribed in R6-12-105 shall not qualify for TPEP unless the PWEF is unemployed for at least 30 days prior to the month of receipt of benefits. As used in this subsection, "unemployed" shall mean:
1. A lack of work for compensation or remuneration,
 2. Regular employment of less than 100 hours in a calendar month, or
 3. Employment of less than 100 hours in each month of the 2 months prior to the current month and anticipated to be less than 100 hours during the following month.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-610. TPEP: Education and Employment Requirements; Good Cause for Nonparticipation

Each TPEP parent shall participate in an education, training, or employment activity, unless such the parent is exempt because the parent:

1. Is under 18 and is:
 - a. 13-15 years old, pregnant or an unwed custodial parent, lacking a high school diploma/GED, and attending full time a secondary, vocational, or technical school or high school equivalency course; or
 - b. 16 or 17 (or 18 when reasonably expected to complete school before reaching 19), the custodial parent of a minor child, and attending full time a secondary, vocational, or technical school or a high school equivalency course;
2. Is an enrolled tribal member residing within the tribe's specified Tribal JOBS geographic area;
3. Is working an average of 30 hours or more per week in unsubsidized employment which pays at least minimum wage and shall last at least 30 days.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-611. TPEP: Duration

No assistance unit may receive TPEP benefits for longer than 6 months in a 12-month period, except that a TPEP unit may be granted a 3-month extension when the JOBS administration requests the extension based on a JOBS determination that there is good cause for the extension. The good cause reasons for JOBS to request an extension are:

1. A parent is enrolled in a vocational educational training program which was approved by JOBS and which can be completed within the 3-month extension period;
2. A parent has a bona fide offer of employment that is to begin within the 3-month extension period;
3. One parent did not participate in JOBS for 1 or more months during the 6-month period and the JOBS Administration has determined good cause existed as prescribed in R6-10-122; or
4. A parent is in an unpaid work experience activity and JOBS expects the parent to be hired within the 3-month extension period.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-612. Transitional Child Care

A. In accordance with the provisions of this Section, the Department, through its Child Care Administration (CCA), may provide transitional child care benefits for assistance unit members, including members excluded from the assistance grant for:

1. Non-compliance with JOBS;
2. Failure to provide a SSN; or
3. Ineligibility due to the provisions of R6-12-308, R6-12-318, or R6-12-608.

B. To qualify for transitional child care, the assistance unit shall:

1. Become ineligible for CA because of:
 - a. Increased hours of employment, or
 - b. Increased earnings from employment.
2. Have received CA or TPEP in at least 3 of the 6 months immediately preceding the 1st month of CA ineligibility;
3. Cooperate in establishing paternity and enforcing support obligations as provided in R6-12-311;
4. Apply to CCA and provide information as requested by CCA in accordance with R6-5-5103;
5. Need such care due to employment in accordance with R6-5-5104(D)(1)(a);
6. Pay any required co-payment; and
7. Meet CCA's income eligibility requirements. Countable and excluded income criteria, and computation of income criteria as prescribed in R6-5-5104(E)(2), R6-5-5104(E)(3), and R6-5-5104(E)(4), shall apply.

C. The notification requirements prescribed in R6-5-5102 shall apply.

Historical Note

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-613. Transitional Child Care: Eligible Children

- A. Care is available for a child who was included in the assistance unit and is:
1. Under age 13;
 2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist;
 3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision;
 4. Receiving SSI and would otherwise be a dependent child; or
 5. Receiving Title IV-E foster care.
- B. A child born or entering the household after the assistance unit begins receiving child care benefits is eligible for child care if:
1. Such child is deprived of parental support pursuant to R6-12-310; and
 2. Such child would otherwise have been included in the CA or TPEP assistance unit at the time such benefits terminated.
- C. A child becomes ineligible if the child's nondisabled absent parent returns to the household.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-614. Transitional Child Care: Duration

An assistance unit that is assigned to the control group as prescribed in R6-12-105 may receive transitional child care for no more than 12 consecutive months immediately following the last month for which the assistance unit received CA or TPEP.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-615. Involuntary Termination of Transitional Child Care

- A. Child care benefits shall terminate if:

1. The caretaker relative fails to cooperate in establishing paternity or enforcing support obligations as provided in R6-12-311; or
 2. The employed person terminates employment without good cause.
- B. In this Section, good cause shall exist when:
1. The employed person needs care for a child or an incapacitated household member, such care is unavailable, and the Department fails to provide such care;
 2. The employer discriminates against the employed person on the basis of race, age, sex, race, creed, color, or national origin;
 3. The work site conditions violate applicable health and safety standards;
 4. The regular work site is located more than 2 hours away, round trip, by reasonably available public transportation, usable private conveyance, or, if other transportation is unavailable, by walking;
 5. The employed person cannot reach the work site due to an unavoidable breakdown in transportation arrangements, and no other transportation is readily available;
 6. The employed person is incarcerated or required to make a court appearance which precludes him from reporting for work;
 7. The employed person lacks the physical or mental ability to perform the work;
 8. The employment is unavailable due to a strike or lockout;
 9. Inclement weather prevents the employed person from traveling to and from the work site;
 10. The employed person quits to accept a job with equal or better compensation; or
 11. Other similar circumstances.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-616. Guaranteed Child Care Benefits: Options

- A. The Department shall provide child care benefits to an assistance unit member who requires such care to:
1. Accept employment,
 2. Continue employment, or
 3. Participate in JOBS.
- B. Guaranteed child care benefits are available to the assistance unit for the duration of time that the assistance unit member:
1. Remains employed or continues to be a JOBS participant, and
 2. Continues to provide information as requested by CCA to determine the need for services in accordance with R6-5-5103(A)(3).
- C. The notification requirements prescribed in A.A.C. R6-5-5102 shall apply.
- D. Except as otherwise provided in this Section, the household may choose from the following benefit options:
1. CCA shall directly pay the child care provider;
 2. The Department shall apply a child care disregard in accordance with R6-12-703(1); or
 3. A combination of direct payment and disregard when the assistance unit:
 - a. Chooses direct payments and incurs dependent care costs which are not covered by the direct payment, and
 - b. Paid for dependent care prior to applying for child care under this Section.
- E. The total benefit shall not exceed \$613.80, per child, per month.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-617. Guaranteed Child Care: Eligible Children

Guaranteed child care benefits are available for a dependent child in the assistance unit, including a child who is ineligible for CA due to the provisions of R6-12-308, R6-12-318, or R6-12-608, who is:

1. Under age 13;
2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist;
3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision;
4. Not a member of the assistance unit due solely to the child's receipt of SSI; or
5. Not a member of the assistance unit due solely to the child's receipt of Title IV-E foster care funds.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT PAYMENT AMOUNT

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-701. Need Standard

- A. The CA need standard is 100% of the 1992 federal poverty level, adjusted for a shelter cost factor as prescribed in subsections (B) and (C), and the number of persons in the assistance unit.
- B. To determine eligibility, as described in R6-12-702, the Department shall use 100% of the need standard appropriate to the size of the assistance unit when:
 1. The assistance unit pays, or is obligated to pay, all or part of the shelter costs for the place in which assistance unit members reside; shelter costs include rent, mortgage, or taxes;
 2. The assistance unit members reside in subsidized public housing;
 3. A member of the assistance unit works in exchange for rent; or
 4. A non-parent relative who is excluded from the assistance grant:
 - a. Charges the dependent child rent; or
 - b. Uses a portion of the dependent child's assistance grant to pay household expenses.
- C. For all circumstances not covered under subsection (B), including those when shelter costs are paid for 3 consecutive months or longer by a person who is not a member of the assis-

tance unit, the Department shall use 63% of the need standard appropriate for the size of the assistance unit.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-702. Determining Eligibility

- A. The Department shall determine eligibility for a specific benefit month based on its best estimate of all non-financial, resource, and financial criteria that exist, and are expected to exist, for that month.
- B. An assistance unit is eligible for CA when the Department finds that the unit:
 1. Satisfies the nonfinancial eligibility criteria described in this Chapter;
 2. Does not exceed the resource limits described in Article 4; and
 3. Satisfies the following income eligibility requirements:
 - a. The unit's gross income, after application of the income disregards described in subsection (C) does not equal or exceed 185% of the applicable need standard (the 185% test); and
 - b. The unit's gross income, less applicable disregards as described R6-12-703, is at least 1¢ less than the applicable need standard.
- C. For the 185% test, the Department shall disregard the following income of dependent children who are members of the unit:
 1. All income derived from participation in the Job Training Partnership Act (JTPA), for up to 6 months per calendar year; and
 2. All unearned income derived from participation in JTPA.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-12-703. Earned Income Disregards

For the purpose of determining income eligibility as provided in R6-12-702(B)(3)(c), the Department shall disregard the following income:

1. Income of dependent children, as described below:
 - a. All earned income derived from JTPA participation, for up to 6 months per calendar year;

- b. All unearned income derived from JTPA participation; and
- c. All income derived from the Summer Youth Employment and Training Program (SYETP);
- 2. A \$90 work expense allowance for each employed person whose needs are included in the assistance unit's budget;
- 3. For each wage earning member of the unit, 30% of any earned income not already disregarded; and
- 4. At the initial interview and at each review, the Department shall require each wage earner to verify billed expenses for the care of each dependent child or incapacitated adult member of the unit who is receiving CA. Acceptable verification shall include:
 - a. A written statement from the individual or business providing the care for the amount billed; or
 - b. Collateral contact, when documents are not available;
- 5. For an assistance unit with an adult who is ineligible pursuant to R6-12-318, an amount equal to the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation;
- 6. For an assistance unit with a child who is excluded from the assistance unit pursuant to R6-12-308, an amount equal to the difference between the benefit amount with the needs of the ineligible child included in the computation and the benefit amount with the needs of the ineligible child excluded from the computation.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-704. Disqualification from Earnings Disregards; Good Cause

- A. The Department shall not apply the earned income disregards set forth at R6-12-703(2) through R6-12-703(5) to the earned income of an assistance unit member for a particular benefit month when the assistance unit member, without good cause:
 - 1. Terminates employment or reduces the hours of employment within the 30 days preceding the benefit month;
 - 2. Refuses to accept a bona fide offer of employment offered through JOBS, or by any other employer, within the 30 days preceding the benefit month; or
 - 3. Fails to make a timely report of income pursuant to R6-12-901.
- B. Good cause.
 - 1. For circumstances applicable to subsections (A)(1) or (A)(2), good cause is limited to:
 - a. The circumstances described at A.A.C. R6-10-119(B); or
 - b. The circumstances described at A.A.C. R6-10-120(A) and (C), if the person is a TPEP parent.
 - 2. For circumstances applicable to subsection (A)(3), good cause is limited to the following:
 - a. The assistance unit reports and verifies that sickness, accident, or other family hardship prevented the unit from reporting timely; or
 - b. The mailing date of the change report is timely as prescribed in R6-12-901.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-705. Determining Benefit Payment Amount; Prorating

- A. The Department shall determine the amount of the assistance grant by subtracting all non-exempt income, following application of all appropriate income disregards, from 36% of the need standard for the number of persons in the assistance unit, and rounding down the resulting figure to the next whole dollar.
- B. If the benefit amount is less than \$10, the Department shall not pay benefits; the assistance unit remains eligible for CA for all other purposes.
- C. The Department shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
 Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-706. Notice of Eligibility Determination

- A. If the Department finds that the unit satisfies all eligibility criteria as specified in this Chapter, the Department shall approve the assistance grant and send notice of approval to the applicant.
- B. If the Department finds that the unit does not satisfy 1 or more of the eligibility criteria specified in this Chapter, the Department shall send a denial notice to the applicant's last known address. The notice shall describe the action taken, the specific authority for the action, and the individual's right to request a hearing to challenge the action.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

ARTICLE 8. PAYMENTS**R6-12-801. Benefit Payments**

- A. The Department shall pay benefits to an eligible assistance unit only during a month for which the unit is eligible for a payment.
- B. The Department shall make benefit payments in the form of a state warrant, payable directly to the eligible recipient, or to a protective payee, emergency payee, legal guardian, or vendor.
- C. The warrant shall bear a statement which shall require the payee to confirm continuing eligibility for benefits when endorsing the warrant for payment.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-802. Mailing of Payments

- A. The Department shall mail the payment warrant to the assistance unit's residential address of record and not to a separate mailing address, unless the assistance unit so requests and provides a valid reason for doing so. Valid reasons include, but are not limited to:

1. A rural address,
 2. Lack of a mail receptacle, or
 3. Residence in a housing area with a high rate of mail theft.
- B.** The Department may mail the warrant to an address outside the state of Arizona for the lesser of:
1. One benefit month, or
 2. Until the assistance unit meets the eligibility requirements for assistance in another state.
- C.** The Department shall not mail a warrant outside the United States.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-803. Supplemental Payments

- A.** The Department shall correct underpayments by issuing the assistance unit a supplemental payment, regardless of whether the individual who was underpaid is eligible on the date the supplemental payment is issued.
- B.** The Department shall not count such supplemental payments as a resource or as income.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-804. Returned Payments

When the U.S. Post Office returns a warrant as undeliverable, the Department shall compare the address to the unit's address of record.

1. If the warrant was incorrectly addressed, the Department shall immediately correct the address and remail the warrant, or give it to the assistance unit.
2. If the warrant was correctly addressed, the Department shall send the unit a notice to contact the Department within 10 calendar days.
 - a. If the unit does not respond to the 10-day notice, the Department shall terminate benefits.
 - b. If the unit does not respond to the notice within 10 days, but does respond by the last day of the benefit month, or by the last day of the following month if the 10-day period expires in the following benefit month, the Department shall make the warrant available to the unit.
 - c. The Department shall cancel any warrant that is not claimed or replaced within the time period specified in subsection (2)(b) above.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-805. Non-receipt of Payments; Replacement

- A.** If a recipient reports nonreceipt of a benefit payment, the Department shall replace the payment within 3 work days from the date of the report, when all the following conditions are met:
1. Four postal workdays have elapsed since the mailing date of the warrant;
 2. The recipient has signed an affidavit attesting to nonreceipt, loss, or theft of the warrant and avowing:
 - a. That neither the recipient, nor someone acting on behalf of the recipient, has received or cashed the warrant;
 - b. That the recipient understands the consequences and penalties for fraud;
 - c. That the recipient understands that the unit is liable for an overpayment if the unit cashes both the original and a replacement warrant; and

- d. That the recipient will return the original warrant to the Department if the unit later finds or receives it; and
3. The Department requests a stop payment on the original warrant.

- B.** If the Department replaces the original warrant, and it is nonetheless cashed, the recipient shall sign a statement avowing that the recipient has reviewed a copy of the endorsement on the original warrant and believes the endorsement was forged.
1. If the recipient refuses to sign the statement and admits cashing the original warrant, but has not cashed the replacement warrant, the recipient shall return the replacement warrant to the Department for cancellation.
 2. If the recipient fails or refuses to sign the statement, or refuses to return the replacement warrant, the Department shall refer the matter to the Department's Office of Special Investigations.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-806. Protective Payee

- A.** The Department shall pay benefits to a protective payee who is not a member of the assistance unit:
1. On behalf of all unit members when a state or tribal protective service agency notifies FAA that the recipient is mismanaging or misappropriating benefits; or
 2. On behalf of all unit members other than the designated recipient when the recipient is disqualified for IPV or fraud.
- B.** The Department, with the assistance of the recipient, shall select a protective payee, who may be any adult other than the following:
1. The Department's director,
 2. A Department eligibility interviewer,
 3. An employee in the Department's Office of Special Investigations,
 4. A Department employee who handles fiscal processes related to the CA program, and
 5. A vendor of goods or services who deals directly with the recipient.
- C.** Except in cases of mismanagement, the Department shall continue paying benefits to the recipient if the Department cannot locate a suitable payee, after exhausting reasonable efforts to do so.
- D.** Protective payments shall terminate:
1. In cases of mismanagement, upon a determination by the protective services agency that such payments are no longer required to avoid further mismanagement; and
 2. In all other cases, when the recipient cooperates with the requirement that caused the onset of protective payments.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-807. Emergency Payee

- A. The Department may pay benefits to a person acting as representative for, or on behalf of, a caretaker relative who was receiving benefits for a dependent child, when the relative:
1. Dies,
 2. Abandons or deserts the child,
 3. Is incarcerated, or
 4. Is committed to a hospital for the mentally ill.
- B. The Department can make payments to the emergency payee for 90 days, or until a case plan is developed for the dependent child, whichever first occurs.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-808. Identification Card

Upon request by a recipient, the Department shall issue the recipient an identification card or an electronic benefit transfer card at no cost. The Department shall keep a photograph of the recipient in the recipient's file after issuing an identification card or an electronic benefit transfer card.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 9. CHANGES; ADVERSE ACTION**R6-12-901. Reporting Changes**

- A. As a condition of eligibility, the assistance unit shall advise the Department of all changes in income, resources, or other circumstances which may affect eligibility or benefit amount, within 10 days from the date the change becomes known.
- B. A change report is considered timely if the mailing date is the tenth day from the date the change becomes known.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-902. Withdrawing a Member from the Assistance Unit

- A. A caretaker relative may request that an assistance unit member be removed from the unit by filing, with the Department, a written request which shall identify the member to be withdrawn, the reason for the request, and the date the request is effective.
- B. The Department shall acknowledge receipt of a withdrawal request and advise the unit in writing within 10 days of receipt of the withdrawal request of the effect of the request, as specified below.
- C. If the request does not identify a specific member, the Department shall apply the request to the entire assistance unit and terminate benefits.
- D. If the person being withdrawn is a mandatory member of the assistance unit, the Department shall deem the entire assistance unit ineligible and terminate benefits.
- E. If the person being withdrawn is not a mandatory member of the assistance unit, the Department shall redetermine eligibility

and benefits in accordance with the provisions of this Chapter.

- F. If the request does not specify an effective date, the Department shall take appropriate action effective the 1st month after the month in which the Department receives the request.
- G. Department action taken in response to a request for withdrawal of a member does not require a notice of adverse action but does require adequate notice and is appealable.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-903. Determining Benefits When Adding or Removing a Member

- A. When the Department receives a request to add a member to the assistance unit, or is required to add a mandatory member, the Department shall redetermine eligibility including the added member.
1. If the new member renders the unit ineligible and is not a mandatory member, the Department shall advise the unit of the consequences and permit the unit to withdraw its request to include the new member.
 2. If the new member renders the unit ineligible and is a mandatory member, the unit is ineligible. The Department shall provide adequate and timely notice.
 3. If the unit remains eligible, the Department shall add the new member, effective the date the Department receives the request to add the member, and shall include the new member's income in the budget.
- B. In the month a new member is added, the assistance unit may be eligible for an additional benefit amount or liable for an overpayment. To determine the unit's entitlement or liability, the Department shall:
1. Recalculate the unit's benefit amount with the new member, as provided in R6-12-704;
 2. Subtract the current benefit amount (without the new member) from the new benefit amount; and
 3. Take the resulting amount;
 - a. If above 0, prorate it, as provided in R6-12-704(C), to determine the benefit amount due the unit;
 - b. If 0, pay no benefit; or
 - c. If below 0;
 - i. Write an overpayment for the month of application, if the member is mandatory; or
 - ii. If the member is not mandatory, allow the unit to add the member the following month, so as to avoid an overpayment for the current month.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-904. Benefit Reduction or Termination

- A. Any change in any factor which the Department considers when determining eligibility or benefit amount may result in

reduction or termination of benefits, consistent with the provisions of this Chapter.

- B.** The Department shall terminate benefits if the assistance unit fails to complete the 6-month review required by R6-12-210.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-905. Ineligibility Date for an Assistance Unit

An assistance unit's ineligibility begins at the time described below:

1. On the 1st day of the same month in which any of the following events occurs:
 - a. Acquisition of resources in excess of the resource limitations specified in Article 4;
 - b. Receipt of lump sum income as set forth in R6-12-505;
 - c. Receipt of income in excess of the 185% income maximum as specified in R6-12-702; or
 - d. The addition of a mandatory assistance unit member.
2. On the 1st day of the 1st month benefits can be terminated following timely notice of adverse action for failure to comply with a 6-month eligibility review.
3. On the 1st day of the 1st month in which the assistance unit is not eligible on the date CA benefits are paid when the unit is rendered ineligible for reasons not specified in subsections (1) or (2).

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit

Ineligibility for an individual member of an assistance unit begins on the 1st day of the 1st month in which the member is not eligible on the date CA benefits are paid when the member is rendered ineligible for any reason.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of

proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-907. Notice of Adverse Action

- A.** When the Department plans to take adverse action against an assistance unit, the Department shall provide the unit with adequate and timely notice, except as provided in subsection (C).
- B.** The Department shall mail such notice, 1st class, postage pre-paid, to the last known residential address for the unit, or other designated address for the unit as allowed pursuant to R6-12-802(A).
- C.** In addition to the information listed in R6-12-101(1), the notice shall contain the following information:
 1. The date the adverse action is effective;
 2. The names of the eligible and ineligible persons in the unit, if changed by the intended action; and
 3. Any effect the intended action may have on the unit members' AHCCCS medical eligibility.
- D.** The Department may dispense with timely notice but shall provide adequate notice of adverse action when:
 1. A recipient or payee dies and no emergency payee is available;
 2. A recipient makes a written request for termination;
 3. A recipient is ineligible due to incarceration, hospitalization, or institutionalization in a skilled nursing care or intermediate care facility;
 4. The recipient's address is unknown;
 5. The Department has verified that the recipient has been accepted for assistance in another state;
 6. A CA child is legally removed from home or voluntarily placed in foster care by the child's parent or legal guardian; or
 7. The recipient furnishes information which results in reduction or termination of assistance and indicates in writing an understanding of the consequences that may result from furnishing such information.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-908. Referral for Investigation

FAA shall refer a case to OSI for investigation when:

1. An applicant or recipient refuses to cooperate as required pursuant to R6-12-302;
2. An applicant or recipient refuses to sign a statement attesting to forgery of a signature on a cashed warrant;
3. The Department has valid reason to suspect that an act has been committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the form or amount of a benefit payment; or

4. The FAA suspects the commission of theft or fraud related to CA or any conduct listed in A.R.S. § 46-215.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 10. APPEALS

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1001. Entitlement to a Hearing

- A. An applicant for or recipient of CA is entitled to a hearing to contest the following Department actions:
1. Denial of the right to apply for assistance;
 2. Complete or partial denial of an application for assistance or for supplemental benefits;
 3. Failure to make an eligibility determination on an application within 45 days of the application date;
 4. Suspension, termination, reduction, or withholding of benefits except as provided in subsection (B).
 5. The existence or amount of an overpayment attributed to the unit or the terms of a plan to repay the overpayment;
 6. Changing the manner or form of payment including naming a protective payee to receive the benefit payment; or
 7. Denial or termination of child care benefits.
- B. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-1002. Request for Hearing; Form; Time Limits

- A. A person who wishes to appeal an adverse action shall file a written request for a fair hearing with a local FAA office, within 20 days of the adverse action notice date.
- B. A request for a hearing is deemed filed:
1. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
 - a. As shown by the postmark;
 - b. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 2. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(1).
- C. The submission of any document shall be considered timely if the appellant proves that delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

- D. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure.
- E. The Office of Appeals shall deny any request that is not timely filed. A party may request an appeal on the timeliness of an appeal.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1003. Hearing Requests; Preparation and Processing

- A. The Department shall advise the appellant of any free legal services available to assist the appellant in completing the request for appeal. If the appellant so requests, the Department shall assist the appellant in preparing the request.
- B. Within 2 working days of receiving a request for appeal, the local FAA office shall notify the Office of Appeals of the hearing request.
- C. Within 10 days of receiving a request for appeal, the local FAA office shall prepare and forward to the Office of Appeals a prehearing summary which shall include:
1. The appellant's name (and case name, if different);
 2. The appellant's SSN (or case number, if different);
 3. The local office responsible for the appellant's case;
 4. A brief summary of the facts surrounding, and the grounds supporting, the adverse action;
 5. Citations to the specific provisions of the Department's CA manual which support the Department's action; and
 6. The decision notice and any other documents relating to the appeal.
- D. The local office shall mail the appellant a copy of the summary.
- E. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearing as prescribed in R6-12-1006.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-1004. Stay of Adverse Action Pending Appeal; Exceptions

- A. If an appellant files a request for appeal within 10 calendar days of the adverse action notice date, the Department shall stay imposition of the adverse action and continue benefits at the current level unless:
1. The appellant specifically waives continuation of current benefits;
 2. The appeal results from a change in federal or state law which mandates an automatic grant adjustment for all classes of recipients and does not involve a misapplication of the law;
 3. The appellant is requesting continuation of TPEP benefits for longer than 6 months within a 12-month period; or

4. The appellant is requesting continuation of benefits for longer than 24 months within any consecutive 60-month period.
- B.** The adverse action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
 1. At the hearing and on the record, the hearing officer finds that: the sole issue involves application of law, and the Department properly applied the law and computed the benefits due the appellant;
 2. A change in eligibility or benefit amount occurs for reasons other than those being appealed, and the assistance unit receives and fails to timely appeal a notice of adverse action concerning such change;
 3. Federal or state law mandates an automatic grant adjustment for classes of recipients;
 4. The appellant withdraws the request for hearing; or
 5. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.
- C.** Upon receipt of decision in favor of the Department, the Department shall write an overpayment for the amount of any benefits the unit received in excess of the correct benefit amount, while the stay was in effect.
- D.** If the appellant files a request for appeal more than 10 days after, but within 20 days of, the adverse action notice date, the Department may take the adverse action while the appeal is pending. If the Office of Appeals then rules in favor of the appellant, the Department shall issue a supplemental payment to the appellant to cure any underpayment within 10 days from the date of the hearing decision.
- c. Prior to entry of a final decision, reopen the hearing to take additional evidence;
- d. Deny or dismiss the appeal or request for hearing in accordance with the provisions of this Article;
- e. Exclude non-party witnesses from the hearing room; and
12. Issue a written decision deciding the appeal.
- C.** Subpoenas.
 1. A party who wishes to subpoena a witness, document, or other physical evidence shall make a written request which shall describe:
 - a. The case name and number;
 - b. The party requesting the subpoena;
 - c. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony; and
 - d. A description of any documents or physical evidence to be subpoenaed, and the name and address of the custodian of the document or physical evidence.
 2. The party requesting the subpoena shall make the request at least 5 work days before the scheduled hearing date.
 3. The hearing officer shall deny the request if the witness's proposed testimony is not relevant to the issues in the hearing.
 4. The Office of Appeals shall prepare all subpoenas and serve them by certified mail, return receipt requested.
- D.** An appellant may request a change in hearing officer if the appellant so requests at least 10 days prior to the hearing. The appellant is limited to 1 request.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1005. Hearing Officer; Qualifications; Duties; Subpoenas

- A.** An impartial hearing officer in the Department's Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
 1. Administer oaths and affirmations;
 2. Regulate and conduct the hearing in an orderly and dignified manner, which avoids undue repetition and affords due process to all participants;
 3. Ensure that all relevant issues are considered;
 4. Exclude irrelevant evidence from the record;
 5. Request, receive, and incorporate into the record all relevant evidence;
 6. Order, when relevant and useful to a resolution of the issue in a case, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the Department;
 7. Upon compliance with the requirements of subsection (C), subpoena witnesses or documents needed for the hearing;
 8. Open, conduct, and close the hearing;
 9. Rule on the admissibility of evidence at a hearing;
 10. Direct the order of proof at the hearing;
 11. For good cause shown, and upon the request of an interested party, or on the hearing officer's own motion, take such action as the hearing officer deems necessary to the proper disposition of an appeal, including, without limitation, the following:
 - a. Recuse or disqualify himself from the case;
 - b. Continue the hearing to a future time or date;

R6-12-1006. Hearings: Location; Notice; Time

- A.** The Office of Appeals shall schedule the hearing at the office location most convenient to the interested parties.
- B.** The Office of Appeals shall schedule the hearing at least 20 days, and no more than 45 days, from the date the appellant files the request for hearing with the local office.
- C.** The Office of Appeals shall issue all interested parties a notice of the 1st hearing at least 10 calendar days before the hearing. The appellant may waive the 10-day notice period or request a continuance.
- D.** The notice of hearing shall be in writing and shall include the following information:
 1. The date, time, and place of the hearing;
 2. The name of the hearing officer;
 3. The issues involved in the case;
 4. A statement listing the appellant's rights, as follows:
 - a. To appear in person or by telephone;
 - b. To have a representative present the case;
 - c. To copy, at a reasonable time prior to the hearing or during the hearing, any documents in the appellant's case file which are relevant to the issues being heard, and all documents the Department may use at the hearing;
 - d. To obtain assistance from the local FAA office to prepare for the hearing; and
 - e. To obtain, from the local FAA office, information on available community legal resources who may be able to represent the appellant.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1007. Rescheduling the Hearing

- A. An appellant may request a continuance of the hearing by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed.
- B. The Office of Appeals must receive the request at least 5 work days before the scheduled hearing date and may deny an untimely request or a request which fails to establish good cause.
- C. When a hearing is rescheduled, the Office of Appeals shall provide appropriate notice to all interested parties.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1008. Hearings Concerning Disability Determinations

- A. A person who appeals an adverse determination of disability may ask to receive another medical examination before the hearing.
- B. Upon receipt of such a request, the FAA local office shall schedule the examination with a licensed physician, psychologist, or psychiatrist. If the appellant does not designate a particular examiner, the Department may choose.
- C. At any time prior to issuing a decision, the hearing officer may ask the District Medical Consultant to schedule the appellant for a special diagnostic evaluation by a specialist.
- D. Upon receipt of a report on the special evaluation, the hearing officer may, but is not required to, have the District Medical Consultant evaluate the report and render an opinion on the appellant's disability and employability.
- E. The hearing officer may consider, but is not bound by, the Medical Consultant's opinion, which shall qualify as an expert medical opinion.
- F. In deciding the appeal of a disability determination, the hearing officer shall consider:
 - 1. All medical, social, and vocational reports which are relevant to the issue of disability; and
 - 2. The appellant's testimony as to the appellant's physical and medical condition or symptomatology.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1009. Group Hearings

The Department may conduct a single group hearing on individual requests for a hearing, under the following circumstances:

- 1. The sole issue in each case is interpretation of the same question of federal or state law or policy,
- 2. Each appellant may present or have an authorized representative present his or her own case,
- 3. Any appellant may withdraw from the group hearing and obtain an individual hearing.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1010. Withdrawal of Appeal; Default

- A. An appellant may voluntarily withdraw an appeal at any time prior to the scheduled hearing by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
- B. An appellant may involuntarily withdraw an appeal by failing to appear at the scheduled hearing.
 - 1. Except as provided in subsection (C), the hearing officer may enter a default decision dismissing the appeal if the appellant fails to appear at a scheduled hearing.
 - 2. When the appellee fails to appear at the hearing, the hearing officer may rule summarily on the available record or may adjourn the hearing to a later date and time.

- 3. If, within 10 days of the scheduled hearing date at which the appellant failed to appear, the appellant files a written request to reopen the proceedings and establishes good cause for non-appearance, the hearing officer shall reopen the proceedings and reschedule the hearing with notice to all interested parties.
- 4. Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.
- C. The hearing officer shall not enter a default if the appellant gives notice, prior to the scheduled time of hearing, that the appellant is unable to attend the hearing, due to good cause, and still wishes the hearing or to have the matter considered on the available record.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1011. Hearing Proceedings

- A. Standard of review and burden of proof.
 - 1. The hearing is a de novo proceeding. To prevail on appeal, the appellant must prove eligibility or entitlement to benefits by a preponderance of the evidence.
 - 2. The Department has the initial burden of going forward with presentation of the evidence.
- B. Appearance by parties and representatives.
 - 1. An appellant may appear by telephone or submit a written statement under oath, instead of appearing personally at the hearing. The appellant shall file the personal statement with all other witness statements and documents the appellant wishes to offer in evidence, with the Office of Appeals before the time of the hearing.
 - 2. The FAA worker, FAA supervisor, or FAA hearing specialist, or another appropriate person may testify for the Department at the hearing.
- C. Evidence and argument.
 - 1. The appellant may testify, present evidence, cross-examine witnesses, and present arguments.
 - 2. The hearing officer shall exclude from the record any irrelevant evidence.
- D. The record.
 - 1. The hearing officer shall keep a full and complete record of all proceedings in connection with an appeal. The appellant or the appellant's designated representative may inspect the record on appeal at any reasonable time.
 - 2. The Department need not transcribe the record unless it is required for further proceedings.
 - 3. If the record is transcribed, the appellant is entitled to receive a copy at no charge.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1012. Hearing Decision; Time Limits; Form; Contents; Finality

- A. No later than 90 days after the date the appellant files a request for appeal, the hearing officer shall render a written decision based solely on the evidence and testimony produced at the hearing and applicable federal and state law. The time limit is extended for any delay caused by the appellant.
- B. The decision shall include:
 - 1. Findings of facts pertinent to the issue;
 - 2. Citations to the law and authority applicable to the case;
 - 3. A statement of conclusions derived from the controlling facts and law, and the reasons for the conclusions; and
 - 4. A statement of further appeal rights available to the appellant and the time period for exercising those rights.

- C. The Office of Appeals shall mail or deliver a copy of the decision to each interested party or such party's attorney of record.
- D. The hearing officer's decision is the final decision of the Department, unless a party files a timely request for reconsideration or further appeal.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1013. Implementation of the Decision

- A. If the decision requires a local office to take further action, such action shall occur within 10 calendar days of the date of the decision.
- B. All decisions in favor of the appellant apply retroactively to the date of the action being appealed or the date stated by the hearing officer in the written decision.
- C. If the decision affirms the Department's decision to take adverse action, the Department shall treat any resulting overpayment as a client-caused, non-fraud overpayment.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1014. Further Appeal and Review of Hearing Decisions; Stay of Adverse Action

- A. A party may appeal an adverse hearing decision to the Department's Appeals Board.
 - 1. The party shall file a written petition for review with the Office of Appeals within 15 calendar days of the mailing date of the hearing officer's decision.
 - 2. The petition shall state the grounds for review and be signed and dated.
 - 3. The petition is deemed filed:
 - a. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
 - i. As shown by the postmark;
 - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - iii. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 - b. On the date it is hand-delivered to the Office of Appeals.
- B. When a party timely appeals a hearing decision, the Department shall stay implementation of the adverse action until the Appeals Board issues a decision and treat any resulting overpayment as a client-caused, non-fraud overpayment.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1015. Appeals Board Proceedings and Decision

- A. Upon receipt of a request for further review, the Office of Appeals shall transcribe the record of hearing and transfer the record to the Appeals Board.
- B. The Appeals Board may decide the appeal based solely on the record of proceedings before the hearing officer or, if the Board is unable to decide the appeal on the available record, the Board may remand the case for rehearing, specifying the nature of any additional evidence required or any further issues for consideration, or conduct a hearing at the Appeals Board to take additional evidence.
- C. The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, or modifying the hearing decision and specifying the parties' right to seek further review.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

ARTICLE 11. OVERPAYMENTS**R6-12-1101. Overpayments: Date of Discovery; Collection; Exceptions**

- A. Except as provided in subsection (E), the Department shall pursue collection of all overpayments.
- B. The Department discovers an overpayment on the date the Department determines that an overpayment exists.
- C. The Department shall write an overpayment report within 90 days of the discovery date.
- D. If the FAA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
- E. The Department shall not attempt to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of an intentional program violation or fraud, and:
 - 1. The total overpayment is less than \$35, or
 - 2. The Department has exhausted reasonable efforts to collect an overpayment of \$35 or more and has determined that it is no longer cost-effective to pursue the claim.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1102. Overpayments: Persons Liable

- A. The Department shall pursue collection of an overpayment from:
 - 1. The assistance unit which was overpaid;
 - 2. Any assistance unit of which a member of the overpaid unit has subsequently become a member; or
 - 3. Any individual member of the overpaid assistance unit, even if that member is not currently receiving benefits.
- B. The Department shall seek recovery from the caretaker relative, or the caretaker relative's current assistance unit, first. If the caretaker relative is unavailable due to death or disappearance, or was not a member of the overpaid assistance unit, the Department shall seek recovery from the other members of the overpaid assistance unit, or the other members' current assistance units.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1103. Methods of Collection and Recoupment

- A. When an overpaid assistance unit is currently receiving benefits, the Department shall permit the unit to choose 1 of the following repayment methods:
 - 1. Offset against any underpayment due the unit;
 - 2. Cash payments;
 - 3. Reduction in current benefits, in an amount not to exceed 10% of the unit's monthly payment, unless the unit desires a larger reduction;
 - 4. A combination of the above methods.

- B. If the repayment reduces the unit's benefits to 0, the unit shall remain eligible for CA for all other purposes.
- C. If the assistance unit is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 12. INTENTIONAL PROGRAM VIOLATION

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1201. Intentional Program Violations (IPV); Defined

- A. An intentional program violation (IPV) is an action by an individual, for the purpose of establishing or maintaining the family's eligibility for CA or for increasing or preventing a reduction in the amount of the grant, which is intentionally:
 1. A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
 2. Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- B. For the purpose of imposing sanctions as prescribed in R6-12-1204, a person is considered to have committed an IPV if:
 1. The person signs a waiver of an administrative disqualification hearing,
 2. The person is found to have committed an IPV by an administrative disqualification hearing, or
 3. The person is convicted of IPV or fraud in a court of law.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

R6-12-1202. IPV Disqualification Proceedings; Hearing Waiver

- A. The Department shall initiate an administrative disqualification proceeding, or a referral for prosecution, upon receipt of sufficient documentary evidence substantiating that an assistance unit member has committed an IPV.
- B. When the Department initiates a disqualification proceeding, the Department shall mail the assistance unit member suspected of an IPV written notice of the right to waive the disqualification hearing.
- C. The waiver notice shall include the following information:
 1. The charges against the suspected violator and a description of the evidence supporting the charges;
 2. An explanation of the disqualification sanctions imposed for intentional program violations;
 3. A warning that the administrative proceeding does not preclude other civil or criminal court action;
 4. The date that the signed waiver notice must be received by the Department should the suspected violator wish to avoid the hearing;
 5. Signature lines for the suspected violator and the suspected violator's current caretaker relative if the suspected violator is not the caretaker relative;

6. A statement that the caretaker relative must also sign the waiver if the suspected violator is not the caretaker relative;
 7. A statement of the suspected violator's right to remain silent concerning the charge;
 8. A warning that anything said, written, or signed by the suspected violator concerning the charge may be used against him or her in administrative proceedings or a court of law;
 9. A warning that any waiver of the hearing establishes an IPV, eliminates the right to further administrative appeal, and will result in disqualification and a reduction in benefits for other assistance unit members for the period of disqualification;
 10. Statements providing the suspected violator an opportunity to admit to the facts supporting disqualification or waive the hearing without admitting to the facts;
 11. The name, address, and telephone number of a Department representative whom the suspected violator may contact for further information;
 12. A list of persons or organizations which may provide the suspected violator with free legal advice regarding the IPV; and
 13. A warning that the Department shall hold any remaining household members responsible for repayment of any overpayment arising from the IPV.
- D. For the purpose of imposing sanctions as prescribed in R6-12-1204, a signed waiver notice shall have the same effect as an administrative adjudication that an IPV occurred.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1203. Disqualification Proceedings; Hearing

- A. If the suspected violator does not sign and return the waiver notice by the return date set in the waiver notice, the Office of Appeals shall send the suspected violator a notice of hearing. The Office of Appeals shall send the notice by certified mail, return receipt requested, no later than 30 days before the scheduled hearing date.
- B. The notice of hearing shall include the following information:
 1. The date, time, and place of the hearing;
 2. The charges against the suspected violator;
 3. A summary of the evidence supporting the charges;
 4. The location where the suspected violator may examine the supporting evidence before the hearing;
 5. A warning that the hearing officer shall render a decision based solely on the evidence which the Department offers if the suspected violator does not appear for the hearing;
 6. An explanation of the suspected violator's right to show good cause for a failure to appear at the hearing and the procedure for doing so;
 7. An explanation of the sanctions the Department shall impose if the hearing officer finds that the suspected violator committed an IPV;
 8. A listing of the suspected violator's procedural rights;
 9. A warning that the pending administrative hearing does not preclude other civil or criminal court action;
 10. A statement advising of any free legal advice which may be available;
 11. A statement explaining how to obtain a copy of the Department's published hearing procedures; and
 12. A statement that the suspected violator may have the hearing postponed by contacting the hearing officer at least 10 days before the hearing date and asking for a postponement.

- C. The hearing officer shall postpone a hearing for up to 30 days if the suspected violator files a written request for postponement with the hearing official no later than 10 days before the scheduled hearing date. Any such postponement days shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.
- D. At the start of the disqualification hearing, the hearing officer shall advise the suspected violator or representative of the right to remain silent during the hearing and the consequences of exercising that right.
- E. A hearing officer, as prescribed in R6-12-1005, shall conduct the disqualification hearing pursuant to the procedures set forth in R6-12-1006, R6-12-1007, and R6-12-1011, except as prescribed in this subsection.
 - 1. The suspected violator does not need to request a hearing as prescribed in R6-12-1006(B).
 - 2. The standard of proof is clear and convincing.
 - 3. So long as the Department sent an advance notice of hearing as provided in subsections (A) and (B) above, the hearing officer shall conduct the disqualification hearing even if the suspected violator or representative cannot be located or fails to appear at the hearing without good cause.
- F. The Department shall prove by clear and convincing evidence that the household member committed an IPV.
- G. No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the suspected violator a written decision which shall conform to the requirements of R6-12-1012 and shall include the information described at R6-12-1204(C).

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1204. Disqualification Sanctions; Notice

- A. A person found to have committed an IPV is disqualified from program participation for 6 months for the 1st violation; 12 months for the 2nd violation; and permanently for the 3rd violation.
- B. The Department shall not include the needs of the disqualified person in the assistance unit but shall count the income and resources of the disqualified person available to the unit.
- C. Upon a determination of IPV, the Department shall notify the violator of the pending disqualification. The notice shall:
 - 1. Inform the violator of the decision and the reasons for the decision;
 - 2. Provide the beginning date and duration of the disqualification, including an explanation of any deferment of disqualification; and
 - 3. Explain the consequences of the disqualification on household members other than the violator.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1205. Disqualification Hearings; Appeal

- A. A person found to have committed an IPV through an administrative disqualification hearing may appeal the decision to the Department's Appeals Board as prescribed in R6-12-1014.
- B. Upon a determination of IPV through a signed waiver of a disqualification hearing, the violator has no right to further administrative appeal.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

R6-12-1206. Honoring Out-of-state IPV Determinations and Sanctions

The Department shall honor sanctions imposed against an applicant or recipient by the Title IV-A agency of another state and shall consider prior violations committed in another state when determining the appropriate sanction.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).

ARTICLE 13. JOBSTART

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1301. Scope

The Department shall operate a wage subsidy program entitled JOBSTART on a statewide basis.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective May 15, 1997 (Supp. 97-2). Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1302. Definitions

The following definitions apply to this Article:

1. "Adjusted gross monthly wages" means the gross monthly wages a person receives from a JOBSTART-subsidized placement after deductions for federal and state income taxes and Federal Insurance Contributions Act (FICA) contributions.
2. Subsidized placement means a job with a public or private sector employer for which the Department reimburses the employer monthly for the wages paid to the participant the lesser of:
 - a. A fixed subsidy amount determined by the Department pursuant to the contract with the employer, or
 - b. The gross wages paid by the employer.
3. Wage pool means a pool of diverted CA and Food Stamp Program benefits which are used to reimburse an employer for the monthly wages paid to a participant.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Amended effective May 15, 1997 (Supp. 97-2). Amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was repealed and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41,

Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1303. Diversion of Benefits to Wage Pool

- A. When JOBS notifies FAA that JOBS has assigned a recipient to a JOBSTART-subsidized placement, FAA shall redirect the recipient's CA and Food Stamp Program benefits to the JOBSTART wage pool to reimburse the participant's employer for wages paid to the participant.
- B. The reimbursement shall not exceed the lesser of:
 1. The recipient's gross monthly earnings from the JOBSTART-subsidized placement, calculated as total hours worked times the participant's hourly wage rate; or
 2. A fixed subsidy amount determined by the Department pursuant to the contract with the employer. The reimbursement shall not exceed 40 hours per week at the federal minimum wage.
- C. The Department shall divert the CA and Food Stamp Program benefits to the wage pool beginning with the calendar month following the month the participant 1st receives wages from the subsidized placement and shall continue diverting the benefits until the participant stops holding a subsidized placement.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Section R6-12-1303 repealed; new Section renumbered from R6-12-1304 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1304. Treatment of Income

The Department shall exclude as income the participant's gross monthly wages received from the subsidized job placement. Income from other sources shall count pursuant to Article 4.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Section R6-12-1304 renumbered to R6-12-1303; new Section renumbered from R6-12-1305 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1305. Supplemental Payments

- A. Advance supplemental payments.
 1. The Department shall provide an advance supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month are less than the combined cash value of the CA and Food Stamp Program benefits which the participant is eligible to receive for that month.
 2. Each month the Department shall determine the need for a supplemental payment, and the amount of the payment, using prospective budgeting based on anticipated family composition and wages of 40 hours per week during the month at the adjusted gross monthly wage the participant is expected to receive.
 3. The supplemental payment shall equal the cash value of the combined CA and Food Stamp Program benefits the participant is eligible to receive for the month minus the anticipated adjusted gross monthly wages from the subsidized placement.
- B. Emergency supplemental payments. The Department shall provide an emergency supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month, plus any supplemental payments already made for that month, are less than the cash value of the monthly food stamp allotment for the participant's household. The Department shall provide an emergency payment no later than 10 days after the date:
 1. The participant requests an emergency payment, or
 2. The Department receives information from the employer which indicates the need for an emergency payment.
- C. Reconciliation supplemental payments.
 1. The Department shall provide a reconciliation supplemental payment to a JOBSTART participant who receives less in adjusted gross wages in a benefit month than the cash value of the combined CA and Food Stamp Program benefits which the participant is eligible to receive for that month due to a reduction in available work hours by the employer.
 2. The Department shall issue the reconciliation supplemental payment no later than the 10th day of the month following the benefit month.
 3. The reconciliation supplemental payment, plus the adjusted gross wages and any other supplemental payments already received for the benefit month, shall not exceed the cash value of the combined CA and Food Stamp Program benefits the participant was eligible to receive for the benefit month.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Section R6-12-1305 renumbered to R6-12-1304; new Section renumbered from R6-12-1306 and amended effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-12-1306. Sanctions

- A.** If a recipient fails or refuses to comply with JOBSTART participation requirements without good cause the Department shall decrease the CA grant using the progressive sanction process described in R6-12-316.
- B.** Good cause is limited to the following circumstances:
1. The participant has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute;
 2. The job requires the participant to join a company union or to resign or refrain from joining a bona fide labor organization;
 3. The participant was incarcerated or ordered to make a court appearance;
 4. Severe weather conditions prevented the participant and other persons similarly situated from traveling to or participating in the employment activity;
 5. The participant or the participant's dependent child suffers a debilitating illness or incapacity; or
 6. The participant has a family crisis, such as:
 - a. Catastrophic loss of home to fire, flood, or other natural disaster; or
 - b. Death of an immediate family member.
- C.** JOBS shall determine if good cause exists.
- D.** The Department shall apply the appropriate progressive sanction reduction against the monthly CA benefit amount the assistance unit is entitled to receive for the month the sanction is applied.
- E.** The progressive sanction benefit reduction shall continue for a minimum of 1 month and until the person complies with JOBS requirements or becomes exempt from JOBS participation.

Historical Note

Adopted effective November 9, 1995 (Supp. 95-4).
Section R6-12-1306 renumbered to R6-12-1305; new
Section renumbered from R6-12-1307 and amended
effective July 31, 1997, under an exemption from the
provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74 (A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit this change to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this change.

R6-12-1307. Renumbered**Historical Note**

Adopted effective November 9, 1995 (Supp. 95-4).
Section R6-12-1307 renumbered to R6-12-1306 effective
July 31, 1997, under an exemption from the provisions of
A.R.S. Title 41, Chapter 6 (Supp. 97-3).

TITLE 6. ECONOMIC SECURITY**CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY
STATE ASSISTANCE PROGRAMS**(Authority: A.R.S. § 41-1954 *et seq.*)

Editor's Note: Article headings and Sections of this Chapter were amended, renumbered, repealed, and adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on these rules. Because these rules are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

ARTICLE 1. RESERVED**ARTICLE 2. APPLICATION AND CONTINUED
ELIGIBILITY**

Article 2, consisting of R6-13-201 through R6-13-207, R6-13-209, R6-13-211, R6-13-212, and R6-13-214 through R6-13-216, recodified from A.A.C. R6-3-201 through R6-3-207, R6-3-209, R6-3-211, R6-3-212, and R6-3-214 through R6-3-216, effective February 13, 1996 (Supp. 96-1).

Section

- R6-13-201. Application
- R6-13-202. Worker Responsibility
- R6-13-203. Home Visits
- R6-13-204. Applicant and Recipient Responsibility
- R6-13-205. Authorizing Assistance
- R6-13-206. Disposition of Application
- R6-13-207. Stopping, Suspending, or Changing the Assistance Grant
- R6-13-208. Reserved
- R6-13-209. Redetermination
- R6-13-210. Reserved
- R6-13-211. Recipients Absent from the State
- R6-13-212. Effective Date of Payment
- R6-13-213. Reserved
- R6-13-214. Change in Case Status
- R6-13-215. Supplemental Payments
- R6-13-216. Case Record

**ARTICLE 3. METHODS OF ELIGIBILITY
DETERMINATION AND BUDGET PROCEDURES**

Article 3, consisting of Sections R6-13-301 through R6-13-307, R6-13-309 through R6-13-311, R6-13-313 through R6-13-316, and R6-13-318 through R6-13-322, recodified from A.A.C. R6-3-301 through R6-3-307, R6-3-309 through R6-3-311, R6-3-313 through R6-3-316, and R6-3-318 through R6-3-322 effective February 13, 1996 (Supp. 96-1).

Section

- R6-13-301. Purpose
- R6-13-302. Verification of Eligibility
- R6-13-303. Verification of Age, Relationship, and Place and Date of Birth
- R6-13-304. Social Security Numbers
- R6-13-305. Residence
- R6-13-306. Citizenship
- R6-13-307. Limitation of Real and Personal Property and Financial Assets
- R6-13-308. Reserved
- R6-13-309. Transfer of Sale of Homestead, Real, or Personal Property
- R6-13-310. Receipt of Other Public Assistance
- R6-13-311. Institutional Status
- R6-13-312. Reserved

- R6-13-313. Sources of Income, Their Treatment, and Disregards
- R6-13-314. Determining Monthly Income; Best Estimate
- R6-13-314.01. Methods to Determine a Best Estimate
- R6-13-315. The Cost of Employment Allowance
- R6-13-316. The \$30 + 1/3 Disregard
- R6-13-317. Reserved
- R6-13-318. Budgeting to Determine Payable Grant
- R6-13-318. Computing the Assistance Grant
- R6-13-319. Consolidated Standards of Need
- R6-13-320. Policies Applicable to All Grants
- R6-13-321. Computing the Assistance Grant
- R6-13-322. Computing Hardship Supplement

ARTICLE 4. RESERVED**ARTICLE 5. RESERVED****ARTICLE 6. SUPPLEMENTAL PAYMENTS PROGRAM**

Article 6, consisting of Sections R6-13-601 through R6-13-604, recodified from A.A.C. R6-3-601 through R6-3-604 effective February 13, 1996 (Supp. 96-1).

Section

- R6-13-601. Definitions
- R6-13-602. Limitations
- R6-13-603. Coordination of Services with Arizona Long-term Care System
- R6-13-604. Right of Appeal

ARTICLE 7. GENERAL ASSISTANCE

Article 7, consisting of Section R6-13-701, recodified from A.A.C. R6-3-701 effective February 13, 1996 (Supp. 96-1).

- R6-13-701. State General Assistance Program

ARTICLE 8. SHORT-TERM CRISIS SERVICES

Article 8, consisting of Sections R6-13-801 through R6-13-809, amended, repealed, or renumbered under an exemption from the provisions of A.R.S. Title 41, Chapter 6, effective August 4, 1997 (Supp. 97-3).

Article 8, consisting of Sections R6-13-801 through R6-13-809, recodified from A.A.C. R6-3-801 through R6-3-809 effective February 13, 1996 (Supp. 96-1).

Section

- R6-13-801. Definitions
- R6-13-802. Application Procedures
- R6-13-803. General Eligibility Requirements
- R6-13-804. Financial Eligibility Requirements; Countable Income
- R6-13-805. Emergent Need Eligibility Requirements
- R6-13-806. Types of Assistance; Duration
- R6-13-807. Payments
- R6-13-808. Notification
- R6-13-809. Complaints, Hearings, and Appeals

ARTICLE 9. TUBERCULOSIS CONTROL

Article 9, consisting of Sections R6-13-901 through R6-13-922, recodified from A.A.C. R6-3-901 through R6-3-922 effective February 13, 1996 (Supp. 96-1).

Section

R6-13-901.	Purpose
R6-13-902.	Age
R6-13-903.	Residence
R6-13-904.	Citizenship
R6-13-905.	Limitations on Value of Real and Personal Property
R6-13-906.	Transfer of Property
R6-13-907.	Employability
R6-13-908.	Receipt of Other Public Assistance
R6-13-909.	Institutional Status
R6-13-910.	Diagnosis and Treatment
R6-13-911.	Referral of Cases to the Department of Economic Security
R6-13-912.	Foster Home Care
R6-13-913.	Return of Nonresidents
R6-13-914.	Computing the Tuberculosis Control Grant
R6-13-915.	Termination of the Tuberculosis Control Grant
R6-13-916.	Termination of TC Grant with AFDC Grant Continuing in Household
R6-13-917.	Overpayment
R6-13-918.	Vendor Payments
R6-13-919.	Redeterminations
R6-13-920.	Available Services

R6-13-921.	Right of Appeal
R6-13-922.	Reporting Change of Status

ARTICLE 10. RESERVED**ARTICLE 11. RESERVED****ARTICLE 12. OTHER PROCEDURES AND SERVICES**

Article 12, consisting of Sections R6-13-1201 through R6-13-1204 and R6-13-1206 through R6-13-1213, recodified from A.A.C. R6-3-1201 through R6-3-1204 and R6-3-1206 through R6-3-1213 effective February 13, 1996 (Supp. 96-1).

Section

R6-13-1201.	Confidentiality
R6-13-1202.	Transfer of Cases Between Cost Centers
R6-13-1203.	State Warrants
R6-13-1204.	Guardianship
R6-13-1205.	Reserved
R6-13-1206.	Overpayments
R6-13-1207.	Special Investigations Unit
R6-13-1208.	Complaints, Hearings, and Appeals
R6-13-1209.	Quality Control
R6-13-1210.	Interagency Inquiry
R6-13-1211.	Quality Assurance
R6-13-1212.	Assistance to Individuals on Conditional Discharge from the Arizona State Hospital
R6-13-1213.	Definition of Indigency for County Medical Care and Hospitalization

ARTICLE 1. RESERVED**ARTICLE 2. APPLICATION AND CONTINUED ELIGIBILITY****R6-13-201. Application**

A person requests assistance or service by submission of a signed written application, verified by the applicant's oath upon forms prescribed by the Department of Economic Security.

1. Unrestricted opportunity to apply. Any person who desires assistance shall be given unrestricted opportunity to apply and a courteous interview.
2. Maintenance of personal dignity. All activity concerned with the eligibility determination process shall be conducted in a manner which enables the applicant to maintain his personal dignity and integrity.
3. Application process. When a person expresses a desire to apply for assistance, the person shall be given an application and an information pamphlet. The person will then be interviewed by an Eligibility Worker and an official application will be completed.
 - a. The applicant shall be informed that the applicant must make an official application which shall be completed, dated, and signed by the applicant or the applicant's authorized representative.
 - b. A place where the application can be completed shall be made available for the applicant.
 - c. If necessary, the applicant shall be given assistance to fill out the application. The applicant may be represented and assisted by an individual of the applicant's choice if the applicant desires.
 - d. The effective date of application is the date it is received in the local office.
 - e. Each applicant will be given an explanation of the right to appeal any action or failure to act by the Department.
 - f. Each new application will be reported within 1 working day from the time it is received.
 - g. To be eligible for any assistance program other than EA, a client must have a locational address and furnish clear instructions as to how the client's home can be located.
4. Concurrent assistance. An individual may apply for assistance from any available program but may not be an active recipient of assistance on more than 1 financial assistance program. However, a client may receive assistance concurrently on both the Tuberculosis Control (TC) and Aid to Families With Dependent Children (AFDC) programs.
5. Adding a person to an active AFDC case. A client who desires another person to be added to the person's active AFDC case must submit a written request. The effective date of the request is the date it is received in the local office.

Historical Note

R6-13-201 recodified from A.A.C. R6-3-201 effective February 13, 1996 (Supp. 96-1).

R6-13-202. Worker Responsibility

- A. Applications shall be decided upon within prescribed time limits except in unusual circumstances, in which instance the case record must show the cause for delay. Eligibility must be determined for SP, MAA and TC within 30 days; within 60 days for GA; and within 45 days for AFDC. If an application must pend beyond the prescribed time limit, the Department shall inform the applicant, in writing, of the reason for the delay and of the applicant's right to appeal.

- B. When an individual applies for assistance, the Eligibility Worker shall explain the functions, policies, programs and services of the Department. At the time of application and each redetermination, the Eligibility Worker shall also explain the penalties for withholding information, giving information, and fraud. The client shall be informed of the Department's responsibility to protect the confidential nature of information developed.
- C. The Eligibility Worker shall explain program eligibility requirements which must be verified.
- D. The Eligibility Worker shall explain resources available to the applicant, how the applicant has met basic needs in the past, and the reason the applicant needs assistance at this time. If applicable income exceeds the adjusted budgeted need, the assistance unit is ineligible for public assistance.
- E. Every AFDC applicant shall be informed that the applicant may apply for Social Services.

Historical Note

R6-13-202 recodified from A.A.C. R6-3-202 effective February 13, 1996 (Supp. 96-1).

R6-13-203. Home Visits

A home visit is mandatory prior to approval of an AFDC application and when redeterminations are made. On an Indian Reservation the home visit interview may take place at a location convenient to both the applicant and the Eligibility Worker.

1. A home visit may be made to any other time to obtain needed information.
2. An office visit can be arranged when necessary to develop referrals or obtain information.

Historical Note

R6-13-203 recodified from A.A.C. R6-3-203 effective February 13, 1996 (Supp. 96-1).

R6-13-204. Applicant and Recipient Responsibility

- A. An applicant for or recipient of assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The applicant for or recipient of assistance shall:
 1. Give the Department complete and truthful information;
 2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility or the amount of the assistance payment within 10 days from the date the change occurs; and
 3. Comply with all the Department's procedural requirements.
- B. The Department may deny an application for assistance, reduce or terminate benefits, or change the manner of payment if the applicant or recipient fails or refuses to cooperate without good cause. However, the Department shall not impose such sanctions for failure to comply with a procedural requirement about which the Department has not advised the applicant or recipient in writing.

Historical Note

R6-13-204 recodified from A.A.C. R6-3-204 effective February 13, 1996 (Supp. 96-1).

R6-13-205. Authorizing Assistance

The Department shall decide, according to policies and rules, if the applicant is eligible for the assistance applied for and shall determine the amount of assistance and the date upon which it shall begin. The applicant shall be notified of the decision in writing.

1. Assistance for the 1st month of eligibility will be made by a PAAR Fund check for all programs except TC. A PAAR check will not be issued if the applicant is found ineligible for all retroactive months, and the warrant pro-

cessing deadline for the applicant's 1st month of eligibility can be met.

2. A PAAR check, charged to Emergency Assistance, may be written to meet the immediate needs of applicants whose applications are pending for categorical assistance, provided they are U.S. citizens or aliens lawfully admitted for permanent residence.
3. No restriction may be placed upon the manner in which the recipient spends the recipient's grant.
4. If a person is added to an active AFDC case in accordance with R6-13-201(A)(5), and that person is eligible for retroactive payments, supplemental payment will be issued for all eligible months as far back as, and including, the month the request was received in the local office, but not for any prior month.

Historical Note

R6-13-205 recodified from A.A.C. R6-3-205 effective February 13, 1996 (Supp. 96-1).

R6-13-206. Disposition of Application

- A. Approval. When all eligibility requirements have been verified, assistance will be approved and an approval letter will be sent to the applicant.
- B. Denial
 1. When 1 or more points of ineligibility are found, assistance will be denied, and a denial letter will be sent to the applicant.
 2. All reasons for ineligibility found will be noted on the decision letter and reference made to the appropriate rules.
 3. An individual whose application has been denied may appeal within 15 days of the date of action.
- C. Withdrawal. An applicant may withdraw the application at any time by written request. When an applicant voluntarily withdraws an application, the applicant's right to appeal is forfeited.
- D. Other. An application may be disposed of if:
 1. The applicant has filed a duplicate application for the same type of assistance.
 2. The applicant leaves the state prior to determination of eligibility.
 3. The applicant has moved and cannot be located.
 4. The applicant dies before the application is processed.
 5. The applicant refuses to provide information necessary to determine eligibility or correct grant amount.

Historical Note

R6-13-206 recodified from A.A.C. R6-3-206 effective February 13, 1996 (Supp. 96-1).

R6-13-207. Stopping, Suspending, or Changing the Assistance Grant

- A. Whenever circumstances require a reduction, suspension, or stopping of the assistance grant, a decision letter will be mailed to the recipient. With the exceptions listed under subsection (C) below, the recipient will be given 10 days' notice prior to the date of the proposed action.
- B. With the exceptions listed under subsections (C) and (D) below, if a recipient requests a hearing within the 10-day period, the proposed action will not be taken until the hearing decision is published.
- C. In the following instances the 10-day advance notice is not required, but a decision letter must be mailed prior to the effective date of action.
 1. The payee dies and, in AFDC cases, no emergency payee is available.
 2. The recipient requests termination in writing.

3. The recipient is in an institution and ineligible.
 4. The recipient is placed in skilled nursing care, intermediate care, or long-term hospitalization.
 5. A recipient's address is unknown.
 6. A recipient has been accepted for assistance by another state, and this fact has been verified, or has become eligible for SSI and has received the recipient's 1st SSI benefit payment.
 7. An AFDC child is legally removed from the home or is voluntarily placed in foster care by the child's legal guardian.
 8. The sole issue is a change of state or federal law which requires automatic grant adjustments for classes of recipients.
 9. The recipient furnishes information in writing which results in suspension, reduction, or termination of assistance and the recipient is aware of the results.
- D. The Department may deny or dismiss a request for a hearing as well as stop, suspend, or change the grant when:
 1. An ES-WIN deregistration occurred because the client refused to accept employment or participate in WIN without good cause.
 2. The client has failed to request a hearing within the 10 days advance notification period.
 3. The sole issue is a change of state or federal law which requires automatic grant adjustments for classes of recipients.
 - E. The Department may stop, suspend, or change the grant when:
 1. The request for a hearing has been withdrawn by the client in writing.
 2. The client or the client's representative failed to appear at the scheduled time of the client's hearing and has not requested rescheduling of the hearing.
 - F. A grant is suspended when there is a temporary period of ineligibility. Suspension shall not be used as a substitute for a case decision.
 1. A suspended case is to be considered as an active case.
 2. Whenever eligibility is re-established, the grant will be resumed and a decision letter sent.
 3. No case will be suspended longer than 3 consecutive months. If ineligibility continues past the 3rd month, the case must be closed.
 4. A case can be closed for financial (income) ineligibility only after the 3rd consecutive month of suspension, and no sooner.
 - G. If a hearing decision declares an improper denial or reduction of payment, the local office will authorize payments in compliance with the hearing decision.
 - H. If it is not possible to complete a redetermination because the recipient failed to keep a necessary appointment or supply required information, notification of proposed stop or suspension of the grant will be mailed.

Historical Note

R6-13-207 recodified from A.A.C. R6-3-207 effective February 13, 1996 (Supp. 96-1).

R6-13-208. Reserved

R6-13-209. Redetermination

Redetermination of eligibility for AFDC, GA, and TC is required every 6 months and every 12 months for SP and MAA.

1. The Eligibility Worker will do a case study prior to redetermination to assure that all eligibility requirements have been satisfied and the assistance grant has been correct since the last redetermination.

2. Recipients are the primary source of information regarding eligibility. If they are unable to obtain information, the Department will assist.
3. A redetermination is not complete until the eligibility of the members of the assistance unit is verified and recorded in the case record.

Historical Note

R6-13-209 recodified from A.A.C. R6-3-209 effective February 13, 1996 (Supp. 96-1).

R6-13-210. Reserved**R6-13-211. Recipients Absent from the State**

- A. To remain eligible for assistance, a recipient who leaves the state must file a statement of intent to return to Arizona and to retain Arizona residence and must also provide his current out-of-state address.
- B. The grant will be mailed out of Arizona no longer than 90 days. However, if the reason for absence is a medical problem of the recipient or a member of his family, and this is confirmed in writing by the licensed physician providing the treatment, the period may be extended. No grant will be mailed outside the United States.
- C. TC out-of-state payments must be authorized by the Department of Health Services.
- D. If the recipient indicates intent to establish residence in another state, the recipient will be advised that Arizona will discontinue assistance effective the month following the 1 in which he leaves.

Historical Note

R6-13-211 recodified from A.A.C. R6-3-211 effective February 13, 1996 (Supp. 96-1).

R6-13-212. Effective Date of Payment

The 1st payment shall be for the month in which all eligibility requirements were met, regardless of when the determination is made, providing a signed application for assistance was on file on or before that month. In cases where payment dates fall in a prior fiscal year, payments can be made only if administrative adjustment funds are available.

Historical Note

R6-13-212 recodified from A.A.C. R6-3-212 effective February 13, 1996 (Supp. 96-1).

R6-13-213. Reserved**R6-13-214. Change in Case Status**

A change in case status must be acted upon within 5 working days.

Historical Note

R6-13-214 recodified from A.A.C. R6-3-214 effective February 13, 1996 (Supp. 96-1).

R6-13-215. Supplemental Payments

Supplemental payments will be made only if:

1. The Department failed to act upon information known to it at the time of the payment discrepancy or acted incorrectly, or
2. A hearing decision so orders, or
3. A person is added to an active case, or
4. A new application has been approved and the assistance unit is eligible for retroactive payments.
5. A suspended grant is being resumed retroactively.

Historical Note

R6-13-215 recodified from A.A.C. R6-3-215 effective February 13, 1996 (Supp. 96-1).

R6-13-216. Case Record

The case record is the documentation of financial, social, and medical information upon which eligibility and grant amounts are determined.

1. All categorical program folders will be color-coded.
2. Case folders shall be uniform throughout the state to facilitate location of documents.

Historical Note

R6-13-216 recodified from A.A.C. R6-3-216 effective February 13, 1996 (Supp. 96-1).

ARTICLE 3. METHODS OF ELIGIBILITY DETERMINATION AND BUDGET PROCEDURES**R6-13-301. Purpose**

The purpose of this Article is to prescribe policy and methods for determination and redetermination of eligibility and to establish budgeting procedures for Assistance Payments Programs.

Historical Note

R6-13-301 recodified from A.A.C. R6-3-301 effective February 13, 1996 (Supp. 96-1).

R6-13-302. Verification of Eligibility

Sources of information. For the purpose of establishing eligibility, information may be secured from the following sources:

1. The client. The client is the principal source of information and is responsible, with the help of the Eligibility Worker, to provide basic information and documentation.
2. The case record. Documented information contained in case records concerning clients previously known to the Department may be used as verification.
3. Collateral sources. If it is necessary to contact another party to obtain information, written permission may be required from the client. If the client refuses to give written permission to the Department to enable it to secure information necessary to establish eligibility or correct grant amount, the client's application will be denied or the client's grant suspended or terminated in accordance with R6-13-206(D)(1)(e) and R6-13-207(H).
4. Public records. Information from public records may be obtained without the client's permission.
5. Other offices of the Department. Information may be secured from other offices or agencies of the Department without the client's permission (unless specially restricted).

Historical Note

R6-13-302 recodified from A.A.C. R6-3-302 effective February 13, 1996 (Supp. 96-1).

R6-13-303. Verification of Age, Relationship, and Place and Date of Birth

- A. Whenever verification of age, relationship, or place or date of birth is required to establish eligibility, documentation should be obtained for the case record.
- B. Examples of documentation which may be used to assist in establishing eligibility include:
 1. Civil and hospital birth certificates and registrations;
 2. Delayed birth certificates and registrations;
 3. Selective service or discharge papers from military service;
 4. Baptismal certificates or church records of confirmation;
 5. Bible records, family registers, or genealogical records;
 6. Marriage certificates or licenses;
 7. U.S. census records;
 8. Passports;
 9. Indian tribal census rolls. The Department may obtain this information for the client;

10. Insurance papers;
 11. Newspaper records;
 12. Citizenship and naturalization documents;
 13. Other legal or official documents which serve to establish age, relationship, and place or date of birth.
- C. It shall be the sole responsibility of the client to obtain citizenship and naturalization documents. He shall be required to pay all fees necessary to obtain any documentation.

Historical Note

R6-13-303 recodified from A.A.C. R6-3-303 effective February 13, 1996 (Supp. 96-1).

R6-13-304. Social Security Numbers

- A. Every person in an assistance unit is required to furnish the person's Social Security Number (SSN).
- B. If the person cannot furnish an SSN, either because it is unknown or one has never been issued, the person is required to apply for one. The Department shall assist the individual to complete the application for a Social Security Number.
- C. If an applicant/recipient for the AFDC, SP, or MAA programs refuses to comply with the enumeration process (the verification and issuance of SSN's), either by refusal to apply for a number or by refusal to reveal the applicant's or recipient's number or have the number verified, the applicant or recipient will be sanctioned by removal of the applicant's or recipient's needs from the grant for each month of noncompliance.

Historical Note

R6-13-304 recodified from A.A.C. R6-3-304 effective February 13, 1996 (Supp. 96-1).

R6-13-305. Residence

Residence must be verified when it is an eligibility requirement. A person who lives in Arizona voluntarily with the intention of establishing a home is considered a resident of this state.

1. Arizona residency is an eligibility requirement for all Assistance Programs except TC and EA.
2. A child is a resident of the state in which the child resides with a specified relative on a permanent basis. However, a child may attend school out-of-state and remain eligible as long as the child remains in the care and custody of a caretaker relative who is an Arizona resident.
3. An Arizona resident who leaves the state to accept U.S. Government employment, or become an inmate of a public institution, retains Arizona residency during the absence. If an Arizona resident enters the U.S. Armed Forces, residency may be retained until 30 days after separation.

Historical Note

R6-13-305 recodified from A.A.C. R6-3-305 effective February 13, 1996 (Supp. 96-1).

R6-13-306. Citizenship

Except for the TC Program, a recipient of assistance payments must be a citizen of the United States, an alien admitted to the United States for permanent residence, or permanently residing in the United States under color of law.

1. A person who was born in the United States must provide documentation.
2. A person who was born in the United States must provide 1 or more of the following:
 - a. Certificate of Citizenship;
 - b. Valid United States Passport;
 - c. Consular Report of Birth or "Certificate of Birth";
 - d. Proof of marriage to a U.S. citizen prior to September 22, 1922, provided other evidence establishes

that the person was a U.S. citizen by birth or was naturalized before September 22, 1922;

- e. An Identification Card issued from a Foreign Service Post;
 - f. Alien Registration Cards;
 - g. Citizen's Identification Card
3. The Department shall not contact the Immigration and Naturalization Service on behalf of the client.

Historical Note

R6-13-306 recodified from A.A.C. R6-3-306 effective February 13, 1996 (Supp. 96-1).

R6-13-307. Limitation of Real and Personal Property and Financial Assets

- A. Value of assets. Property, assets, and resources must be measured in terms of gross market value or equity as specified in provisions of this Article, and must be available to meet need.
- B. Countable assets. The following property, assets, and resource limitations pertain to the AFDC program only. Limitations for other programs are set forth in the different program articles of this Manual.
1. Household furnishings. Household furnishings used by the assistance unit in its usual place of residence shall be totally disregarded.
 2. Personal effects. Wearing apparel, necessary personal effects, wedding and engagement rings, and heirlooms shall be totally disregarded.
 3. Homestead.
 - a. Limitation. The home in which the assistance unit resides and the land contiguous thereto is limited to a gross market value of \$30,000 or less. Or, if the gross market value does not exceed \$30,000, then the value of equity must not exceed \$5,000.
 - b. Evaluation. Current gross market value shall be obtained from the county assessor's office.
 4. Tools of trade. Tools, equipment, and materials used by the members of the assistance unit in their usual trades or occupations shall be totally disregarded.
 5. Vehicles.
 - a. Limitations.
 - i. One vehicle. One automobile, or 1 truck of less than 1 ton capacity, owned or being purchased by the assistance unit, is limited to a gross market value of \$2,000 or less. Or, if the gross market value of the 1 vehicle does exceed \$2,000, then the value of equity must not exceed \$200.
 - ii. All other vehicles. The value of all other vehicles owned or being purchased by the assistance unit will be considered under the limitation on "Other property, assets, and resources".
 - b. Evaluation.
 - i. Establishing value. As the basis for establishing the gross market value of vehicles, the lower (that is, wholesale) figure specified in the latest edition of the Kelley Blue Book will be used.
 - ii. Old vehicles. If a vehicle is too old to be listed in the Kelley Blue Book, a gross market value of \$300 shall be used.
 - c. Re-evaluation.
 - i. Objection to evaluation. If the assistance unit objects to the evaluation of a vehicle based on the Kelley Blue Book figures or if the value could cause the assistance unit to be ineligible, the assistance unit will be informed of its right to secure, at its own expense, 3 appraisals to be

- submitted through the local office to the hearing office for a redetermination of value.
- ii. Right to appeal. If the assistance unit then objects to the hearing office's re-evaluation, or to a resulting adverse decision of the Department, it will be reminded of its right to file an appeal as provided for in R6-13-1208.
6. Other property, assets, and resources.
 - a. Limitations.
 - i. Single recipient assistance unit. For a single recipient assistance unit, the gross market value of other property, assets, and resources is limited to \$1,200 or less. Or, if the gross market value does exceed \$1,200, then the value of equity must not exceed \$200.
 - ii. Multiple recipient assistance unit. For an assistance unit of 2 or more recipients, the gross market value of other property, assets, and resources is limited to \$1,600 or less. Or, if the gross market value does exceed \$1,600, then the value of equity must not exceed \$200.
 - b. Examples of resources. Examples of other property assets or resources include, but are not limited to:
 - i. Cash;
 - ii. Accounts in banks or savings institutions. If a client is a co-holder of a joint account, the total amount shall be counted as other property or assets, unless the client can show proof that only part or none of the amount is actually available to the client;
 - iii. Stocks and bonds;
 - iv. Reserved;
 - v. Vehicles other than automobiles or trucks;
 - vi. Cash surrender value of insurance policies. The client is required to make all insurance policies available for review by the eligibility worker;
 - vii. Other real property owned but not used as a residence;
 - viii. Livestock, with the exception of household pets and animals kept for domestic use or consumption;
 - ix. Trust accounts. The client shall be required to petition the trustee to make the trust fund available to him to meet need;
 - x. Sales contracts or mortgages;
 - xi. Mining claims;
 - xii. Mineral rights;
 - xiii. Burial plots but not family plots or burial plans;
 - xiv. Grazing permits. However, the value of grazing permits on land which is contiguous to the client's homestead property shall be included in the value of homestead property and not counted as other assets;
 - xv. Contents of safety deposit boxes of any resource value. The assistance unit shall be required to accompany the Eligibility Worker to the bank and allow the Eligibility Worker to inspect the contents of a safety deposit box, or, if this is not possible, show proof of the contents of the box;
 - xvi. Inheritances;
 - (1) Eligibility shall not be affected until such time as the proceeds of the inheritance are made available to the client;
 - (2) If it appears that the inheritance would make the assistance unit ineligible, it shall be required to petition the court for a full or partial distribution of the estate as soon as possible. Proof of the petition must be submitted to the Department within 45 days of notification of this requirement. If evidence of an attempt to initiate action is not presented within this time, the inheritance will be considered as available to meet need.
- C. Property and assets owned wholly or partially by an SSI recipient
 1. Property and assets owned wholly by a relative or spouse who is an SSI recipient shall not be included in those belonging to the assistance unit.
 2. One-half of the value of property and assets owned jointly by an assistance client and an SSI recipient shall be considered as belonging to the assistance unit.
 3. An automobile owned jointly by an assistance client and an SSI recipient, which is used for medical treatment or employment by the SSI recipient, shall not be considered as belonging to the assistance unit.
 - D. Ownership and availability of property
 1. Real property (homestead or other).
 - a. Legal availability. Only that share of real property legally available to the members of the assistance unit is countable against homestead and other asset limitations. Thus:
 - i. If both co-owners are members of the assistance unit, all of the value of the real property is countable.
 - ii. If 1 co-owner is not a member of the assistance unit, the ½ available to the assistance unit member is countable.
 - iii. For children living with non-parent relatives, none of the non-parent relatives' real property is available to them.
 - iv. For stepchildren, the ½ of co-owned real property belonging to their natural or adoptive parent is available to them, as well as all the sole and separate real property of their natural or adoptive parent.
 - b. Complaint for partition. If a client is co-owner of real property, and the client's share of its value causes an excess over the limitation of resources, and the other co-owner either refuses to liquidate it or is unavailable (absent), the client shall be required to present evidence of having attempted to file a complaint for partition of the property.
 - i. The client shall be required to keep the Department informed of the progress of the suit.
 - ii. The property will not be counted during the time it is in litigation.
 - iii. Proceeds from the sale of the property will be treated in accordance with the appropriate provisions of this Article.
 - iv. If the client does not present evidence of having attempted to initiate action within 45 days of the initial claim of unavailability, the property will be considered as available.
 2. Personal property.
 - a. Availability. Only that share of personal property legally and physically available to the assistance unit is countable against asset and resource limitations.
 - i. Legal title. To determine legal availability for those types of personal and property for which

titles are issued (notably vehicles and mobile homes):

- (1) If a member of the assistance unit has sole title, all of the property will be countable against resource and asset limitations.
- (2) If co-titled "or" to a member of the assistance unit, all of the property will be countable.
- (3) When co-titled "and" or "and/or":
 - (a) If both co-titled parties are members of the assistance unit, all the property is countable.
 - (b) If 1 co-owner is absent so as to be unavailable for signing release, or refuses to sign release, none of the property is available to the other co-owner and is thus not countable.
- (4) In stepparent cases:
 - (a) Personal property acquired previous to the present marriage is owned sole and separate by the titled party and is fully available to the party and to the party's own natural or adoptive children.
 - (b) One-half of the property co-titled to the 2 parents with an "and" or "and/or" designation is considered available to any 1 of their natural or adoptive children, but only if the child's stepparent is willing to liquidate the property. The stepparent is considered "unwilling" unless a signed statement to the contrary is filed.
 - (c) Property co-titled "or" to the 2 parents is fully available to each and to all of their natural or adoptive children.
 - (d) For any other personal property (for which no title is issued) ½ the value will be considered available to each parent and to each parent's respective children.
- ii. Physical possession. For personal property to be countable, it must also be physically available -- that is, in the possession of a member of the assistance unit, or reasonably easy for the member of the assistance unit to gain possession.
- b. Complaint for possession of partition. A client is not required as a condition of eligibility to file a complaint for possession or partition of personal property, though the Department will encourage and assist him to do so.

Historical Note

R6-13-307 recodified from A.A.C. R6-3-307 effective February 13, 1996 (Supp. 96-1).

R6-13-308. Reserved

R6-13-309. Transfer or Sale of Homestead, Real, or Personal Property

A client must not have transferred or assigned real or personal property with the intent to render the client eligible or increase the client's need for assistance within 5 years prior to application or while a recipient.

1. Fair consideration.
 - a. Fair consideration received. If fair consideration was received for real or personal property sold or transferred, this will not adversely affect the client's eligibility and no inquiry will be made into the motive.
 - b. Fair consideration not received. If it is determined that a member of the assistance unit has refused or has not received fair consideration with intent to render the assistance unit member ineligible, starting from the month in which the transaction occurred, for as many months as the amount of the uncompensated value can be divided by the assistance unit's monthly unadjusted budgeted need.
2. Transfer of sale of homestead property.
 - a. Sale and reinvestment. If a client sells the client's homestead, the client will be given 90 days in which to reinvest the proceeds in another home. During that period the proceeds will not be counted as available income or as sets to meet need.
 - i. If the proceeds are reinvested, any amount still remaining after the purchase of the 2nd homestead will be considered as other assets and resources.
 - ii. If, however, the client fails to reinvest the proceeds in another homestead within 90 days, at the end of that period the proceeds will be considered available assets and resources.
 - b. Transfer for health reasons. A client may transfer homestead property with or without retention of life estate without adversely affecting his eligibility if it is determined that the property can no longer be used as a home because of health reasons.
 - c. Evaluating life estate. The value of the life estate interest in a property will be determined by the appropriate instructions of this Article.

Historical Note

R6-13-309 recodified from A.A.C. R6-3-309 effective February 13, 1996 (Supp. 96-1).

R6-13-310. Receipt of Other Public Assistance

- A. A client may not receive public assistance from another state and from the state of Arizona concurrently.
- B. With the exception of the state Supplemental Payments Program (SSP), a client may not receive federal Supplemental Security Income (SSI) and assistance from the state of Arizona concurrently.
- C. With the exception of Aid to Families with Dependent Children (AFDC) combined with Tuberculosis Control (TC), an individual may not be an eligible recipient of assistance of more than 1 program.

Historical Note

R6-13-310 recodified from A.A.C. R6-3-310 effective February 13, 1996 (Supp. 96-1).

R6-13-311. Institutional Status

A person is ineligible for public assistance for each and every full calendar month in which the person is an inmate of a public institution. The only exception to this rule is the personal care allowance in the Tuberculosis Control (TC) program.

Historical Note

R6-13-311 recodified from A.A.C. R6-3-311 effective February 13, 1996 (Supp. 96-1).

R6-13-312. Reserved

R6-13-313. Sources of Income, Their Treatment, and Disregards

- A.** Proceeds received from sale of non-homestead real property or personal property
 - 1. Such proceeds will not be considered as income, but as a conversion of assets.
 - 2. Such proceeds will be subject to the limitation of real and personal property and financial assets.
- B.** Proceeds received from sale of homestead property. Such proceeds will be considered in the method established by rules of this Article concerning the sale and transfer of property.
- C.** Income received from rentals, leases, and room and board
 - 1. One-third of the income from the rental or lease of any property, real or personal, shall be counted as income available to meet need. A lower figure is allowable, provided the client fully documents all expenses.
 - 2. One-third of the total proceeds received from furnishing room or room and board shall be counted as income available to meet need. A lower figure is allowable, provided the client fully documents all expenses.
- D.** Income from self-employment. Income after expenses which is received from sale of goods or services rendered through self-employment shall be considered as income available to meet need.
 - 1. Self-employed recipients of GA or AFDC will be given the scheduled cost of employment allowance for work expenses.
 - 2. However, an AFDC recipient may claim a higher work expense figure if he can furnish documentation to verify all income received and expenses claimed.
- E.** Contributions from relatives, stepparents, other individuals, or non-charitable organizations
 - 1. The first \$50 of money contributions received by the assistance unit from these sources in any given calendar month will be totally disregarded. However, any amount in excess of \$50 must be considered as available income.
 - 2. Commodity contributions and free services rendered shall not be evaluated or considered as income available to meet need. However: If the cost of an assistance unit's shelter is fully paid on an ongoing basis directly to the landlord or lienholder by another person, the contribution will not be considered as income, but the assistance unit will be considered as living rent-free.
 - 3. Contributions from a co-tenant for the purpose of rent-sharing shall be disregarded.
- F.** Reserved.
- G.** Dividends, interest, and royalties
 - 1. Dividends or interest from stocks, notes, mortgages, and bonds, as well as all royalties, shall be considered income available to meet need. When any such assets are sold or cashed, the proceeds will be considered as converted assets in accordance with R6-13-313(A), and not as income.
 - 2. Interest on all U.S. Government savings bonds will be considered, along with the principal value, as an available asset and not as income. When cashed, the proceeds will be considered as converted assets in accordance with R6-13-313(A) and not as income.
 - 3. Interest on all savings accounts and other interest-bearing accounts will be considered, along with the principal, as available assets and not as income. Withdrawals from such interest-bearing accounts, as well as withdrawals from all non-interest-bearing accounts (such as checking accounts) will be considered as converted assets in accordance with R6-13-313(A), and not as income.
- 4. Deposits made by any party not a member of the assistance unit into any savings, checking, or other account belonging to a member of the assistance unit, will be considered as income in accordance with the appropriate provisions of this Article.
- H.** Income from provisions of foster care, day care, or housekeeping services
 - 1. If the Department pays a person, either in part or in full, for provision of day-care or foster-care services, the entire payment, including that portion paid by the Department and that paid by the private individual or organization, will be totally disregarded as income.
 - 2. If a private individual or organization pays a person for providing foster or day-care services (including baby-sitting), but with no participation of the Department in the payment, the amount received will be considered as earned income subject to all appropriate disregards.
 - 3. If the Department pays a person for providing housekeeping services, either as a provider under Social Services Title XX, or as a provider to an eligible SP recipient as specified by R6-3-603(A)(3), the payment will be totally disregarded as income.
 - 4. Payment for housekeeping services for which payment is not provided by the Department will be considered as earned income subject to all appropriate disregards.
- I.** Social Security benefits
 - 1. Referral to SSA. Every applicant or recipient should be screened for possible eligibility for Social Security benefits. Every client who could qualify for SSA benefits is required to apply for them within 30 days of notification of this requirement.
 - 2. Availability of SSA income.
 - a. The SSA benefit of an adult is to be considered as income available to the adult, to the adult's spouse, and to the adult's own natural or adoptive children.
 - b. The SSA benefit of a minor child is to be considered as sole and separate income to meet the needs of that child only.
 - c. If a person receives SSA and SSI concurrently, the person is ineligible for state assistance (except SP), and none of the person's income is available to the eligible members of the assistance unit.
- J.** Veterans Administration benefits
 - 1. Availability of VA income. VA benefits shall be considered as income available to meet the needs of the VA beneficiary and all the beneficiary's legal dependents (i.e., the spouse and natural or adoptive minor children).
 - 2. Referral to VA. If there is a veteran in the assistance unit who is disabled and claims the veteran does not receive benefits, or a dependent of a veteran who claims the veteran does not receive benefits, the veteran will be referred to the nearest VA office and required to apply for VA benefits within 30 days of notification of this requirement.
- K.** Industrial Compensation benefits
 - 1. Availability of IC benefits. All temporary or permanent Industrial Compensation benefits shall be considered as income available to meet the needs of the IC beneficiary and of all legal dependents. Legal fees withheld by attorneys handling IC claims cannot be disregarded.
 - 2. Referral to IC. If there is reason to believe that the client may be eligible for IC benefits, the client shall be referred to the Industrial Commission and required to apply for them within 30 days of notification of this requirement.
- L.** Railroad Retirement benefits
 - 1. Referral for RR benefits. An individual with 10 years or more of railroad employment has vested rights in Rail-

- road Retirement benefits and may also be eligible for Social Security benefits. If it appears that a client may be eligible for Railroad Retirement benefits, the client shall be required to apply for them within 30 days of notification of this requirement.
2. Availability of RR benefits. Railroad Retirement benefits shall be considered as income available to meet the needs of the RR beneficiary and of all the beneficiary's legal dependents.
- M.** Unemployment Insurance benefits
1. Referral for UI benefits. If it appears that a client may be eligible for any type of Unemployment Insurance, the client will be required to apply for such benefits within 30 days of notification of this requirement. Various types of UI benefits include:
 - a. Unemployment Insurance (UI) administered by the Department,
 - b. Veterans' unemployment compensation (UCX) administered by the Department,
 - c. Federal employees' unemployment compensation (UCFE) administered by the Department,
 - d. Railroad unemployment benefits administered by Railroad Retirement offices,
 - e. Unemployment benefits administered by labor organizations and private insurance companies.
 2. Availability. UI benefits are available income to the UI beneficiary and to the beneficiary's legal dependents.
- N.** Public and private retirement pensions and annuities. The following types of benefits shall be considered as income available to meet need:
1. Federal, state, and local government retirement pensions;
 2. Pensions from private industry;
 3. Retirement benefits or annuities from insurance plans.
- O.** Income received while attending Arizona Training Center for the Handicapped, Inc. Income received by a client during evaluation, training, or rehabilitation at the Arizona Training Center for the Handicapped, Inc., shall be considered as available to meet need and as earned in a "sheltered workshop".
- P.** Reserved.
- Q.** Child's sole and separate income. Legally sole and separate income of a minor child, which is not otherwise disregarded or provided for in this Article, will be counted as income available to meet the needs of that child only. Child support income will be treated in accordance with Title IV-D regulations as specified in 6 A.A.C. 12, Aid to Families with Dependent Children.
- R.** Bureau of Indian Affairs work-study benefits
1. Living expenses provided to the client under this program shall be considered as income available to meet need.
 2. However, educational expenses paid directly to this school or college are to be totally disregarded.
- S.** Earned income from private or public employment. Earned income from public or private employment shall be considered as available to meet the needs of the wage earner and of all the wage earner's legal dependents (i.e., of the spouse and of the natural or adoptive minor children).
- T.** Earned "income-in-kind". Goods, services, or rent reductions in exchange for services which are received as earned income-in-kind shall not be counted as income available to meet need. Rent reductions are income-in-kind. If a client performs services for a landlord in lieu of paying all or part of the client's rent obligation:
1. The value of the in-lieu rent will not be considered as available income, and
 2. The client will be entitled to an A-1 budget standard.
3. The client, if certified disabled, will not be declared employable solely on the basis of performing such services.
- U.** Income received as child support payments. Child support shall be treated in accordance with Title IV-D regulations as specified in 6 A.A.C. 12, Aid to Families with Dependent Children.
- V.** Reserved
- W.** Reserved
- X.** Reserved
- Y.** Reserved
- Z.** Types of income which are totally disregarded
1. Income earned by a child under age 14.
 2. Income earned by a child receiving AFDC who is either
 - a. A full-time student, whether working full- or part-time, or
 - b. A part-time student, providing the student is working only part-time. Thus:
 - c. If a part-time student is at the same time a full-time employee, the student's total earnings (less allowable disregards) shall be counted as income available to meet the student's needs.
 3. The \$30 monthly income payment to WIN participants in institutional and work experience training.
 4. Training-related expense payments made to WIN participants.
 5. Judgment funds (per capita payments) paid to, or held in trust for, Indians as a judgment of the Indian Claims Commission or court of claims. If such funds are invested, any interest, dividends, etc., shall be considered as income available to meet need.
 6. Benefits paid to Alaskan natives under the Alaska Native Claims Settlement Act, to the extent they are exempt from taxation.
 7. Payments made to volunteers participating in the Volunteers in Service to America (VISTA) program.
 8. Payments made to volunteers participating in the Service Corps of Retired Executives (SCORE) program.
 9. Payments made to volunteers participating in the Active Corps of Engineers (ACE) program.
 10. Benefits received by persons over age 60 under the Nutrition Program for the Elderly, the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Older Americans Community Service Program.
 11. Reserved
 12. Reserved
 13. Reserved
 14. Educational grants, loans, and scholarships:
 - a. Grants, loans, or assistance made or insured by the Commissioner of Education under the Higher Education Act for undergraduate study are to be totally disregarded. These include:
 - i. Work-Study Program assistance, including college work-study, as well as any income earned by the student while in these programs;
 - ii. National Direct Student loans (formerly National Defense Education Act loans), and Guaranteed Student loans;
 - iii. Job Corps income;
 - iv. Basic Educational Opportunity Grants (BEOG);
 - v. Supplementary Educational Opportunity Grants (SEOG);
 - vi. OASDI Benefits paid to or for a child age 18 to 21 which are conditioned upon regular attendance at a school, college, university, or in a

Department of Economic Security - State Assistance Programs

- course of vocational or technical training designed to enable the child to become self-supporting;
- vii. That portion of a Veterans Educational Assistance Program Grant (G.I. Bill or other) which is for the student only. However, any portion for the student's dependents (family subsistence) is countable income.
- b. For any other scholarship or educational grant (that is, one not made through the Commissioner of Education), that portion designed for tuition, books, student fees, and all other education-related expenses is to be totally disregarded. However, that portion, if any, designated to meet current living needs is to be considered as income available to meet need. Student loans will be totally disregarded.
- 15. The "Bonus Value" of FNS food stamp coupons.
- 16. The \$30 weekly incentive payment to participants in the Comprehensive Employment and Training Act (CETA) program.
- 17. Payment received from the sale of real property for public purpose under Title II of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. If such funds are invested, any interest, dividends, etc. shall be considered as available income.
- 18. Charitable contributions from recognized charitable institutions or foundations.
- 19. Commodity contributions and free services rendered.
- 20. Reserved
- 21. Reserved
- 22. Vocational Rehabilitation Program (DVR) payments made as reimbursements for training-related expenses incurred by the client, as well as all other VR subsistence allowances, but not salary earned from VR-sponsored OJT or other VR-sponsored employment.
- 23. The value of supplemental food assistance received under the Child Nutrition Act of 1966, and special food services for children under the National School Lunch Act.
- 24. Any commercial loan from a bank or licensed loan company.
- 25. Any governmental home-improvement loan.
- 26. Tax refunds. Such refunds are to be treated as an available asset.
- 27. Personal loans, if property documented, from friends, relatives, or others.

Historical Note

R6-13-313 recodified from A.A.C. R6-3-313 effective February 13, 1996 (Supp. 96-1).

R6-13-314. Determining Monthly Income; Best Estimate

- A. For each assistance unit, the Department shall calculate a best estimate of monthly income using the methods described in R6-13-314.01.
- B. The best estimate shall include income which the assistance unit has received or reasonably expects to receive in a benefit month and shall be based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and future circumstances.
- C. The Department shall include in its calculation all gross income from every source available to the assistance unit unless specifically excluded in this Article or by the federal Social Security Act.
- D. The Department shall convert income received more frequently than monthly into a monthly amount as follows:
 - 1. Multiply weekly amounts by 4.3,
 - 2. Multiply bi-weekly amounts by 2.15,

- 3. Multiply semi-monthly amounts by 2,
- 4. Convert daily wages to a weekly average and multiply by 4.3.
- E. The Department shall determine a new best estimate of income:
 - 1. At each review; and
 - 2. When there is a change in countable income of more than \$25 which is expected to:
 - a. Last beyond the month the change occurred, or
 - b. Result in an increase in benefits.

Historical Note

R6-13-314 recodified from A.A.C. R6-3-314 effective February 13, 1996 (Supp. 96-1).

R6-13-314.01. Methods to Determine a Best Estimate

- A. The Department shall determine a best estimate of monthly income for an assistance unit by the methods described in this Section.
- B. Anticipating income.
 - 1. When using this method, the Department shall consider income the assistance unit actually receives and is reasonably certain to receive in a benefit month.
 - 2. The Department shall anticipate income for an assistance unit which:
 - a. Regularly receives income from the same source and in the same amount;
 - b. Receives or reasonably expects to receive income from a new source;
 - c. Receives or reasonably expects to receive income from a continuing current source but at a new rate of pay;
 - d. Receives income on a seasonal or intermittent basis; or
 - e. Has lost a source of income.
- C. Averaging income.
 - 1. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
 - 2. The Department shall average income for an assistance unit which receives income:
 - a. Irregularly, or
 - b. Regularly but from sources or in amounts which vary.
- D. Prorating income.
 - 1. When using this method, the Department shall average income over the period of time the income is intended to cover.
 - 2. The Department shall prorate income for an assistance unit which receives income which is intended to cover a fixed period of time.
 - a. When a person receives income pursuant to a fixed-term employment contract:
 - i. Income shall be counted in the month received, if received monthly or more often, throughout all months of the contract;
 - ii. Income shall be prorated over the number of months in the contract if payment is received before or during the time work is performed but not as specified in subsection(D)(2)(a)(i) above;
 - iii. Income shall be prorated over the number of months in the contract if payment is received upon completion of the work;
 - iv. For AFDC cases which fall within subsection (D)(2)(a)(iii) above, applicable earned income

- disregards shall apply as if the prorated amounts were received in each month of the contract. The resulting amounts for each month shall then be totaled and counted in the month received as a lump sum pursuant to 45 CFR 233.20(a)(3)(ii)(F) (October 1992), incorporated by reference and on file with the Office of the Secretary of State;
- v. For the purpose of this subsection, the term "applicable earned income disregards" shall include those earned income disregards set forth in 45 CFR 233.20(a)(11) (October 1992), incorporated herein by reference and on file with the Office of the Secretary of State.
 - b. When a GA or TC benefit recipient who is attending a college, university, or other school with a semester or quarter system receives income from a non-excluded scholarship, deferred educational loan, or other educational grant, the income from such a source shall be prorated over the number of months in the semester or quarter for which the income is intended.

Historical Note

R6-13-314.01 recodified from A.A.C. R6-3-314.01 effective February 13, 1996 (Supp. 96-1).

R6-13-315. The Cost of Employment Allowance

- A. Applying the COE. The Cost of Employment Allowance (COE) is applicable to both the AFDC and the GA programs. The COE applies to earnings from self-employment as well as to wages paid by an employer.
 1. AFDC. The appropriate COE will be allowed for each person whose earnings are included in the AFDC assistance grant budget computation, regardless of whether that person is an eligible recipient on the grant or not.
 2. GA. Only a single half-time COE of \$24 can be allowed on any GA budget, regardless of whose earnings are budgeted.
- B. Schedule of COE. The following schedule shall determine the COE allowable for each person whose earnings are considered in the budget computation, depending on the number of hours worked in the month to earn the income:

Total Hours Employed in the Month	COE for the month
1 through 85 (half-time) (GA or AFDC)	\$24
86 or more (full-time) (AFDC only)	\$48
- C. Documented COE. If an employed person whose earnings are considered on an AFDC budget objects to the person's COE for the reason that the person's actual expenses incurred are in excess of the scheduled COE, the person may present documentation of such expenses. The local office will verify and evaluate the expenses claimed and will determine whether a special COE is justified.
- D. Budgeting the COE. In computing the AFDC assistance grant, the COE must be determined and subtracted after any allowable \$30+1/3 disregards are computed and subtracted (not before) as in the following sequence:
 1. First, determine the total countable gross earned income of the assistance unit.
 2. Next, compute (on the basis of total gross earned income) and subtract any allowable \$30+1/3 disregards.
 3. Last, determine and subtract allowable COE figure.

Historical Note

R6-13-315 recodified from A.A.C. R6-3-315 effective

February 13, 1996 (Supp. 96-1).

R6-13-316. The \$30 + 1/3 Disregard

- A. Application of the \$30 1/3 disregard. The \$30 1/3 disregard applies to the AFDC program only.
 1. Types of income to which the disregard applies.
 - a. Earned income from public, private, or self-employment;
 - b. Earned income from WIN program employment (other than WIN public service employment) and from on-the-job training (OJT) administered by the WIN program.
 2. Types of earned income to which the disregard does not apply.
 - a. Earned income from Public Service Employment (PSE) for participants in the WIN program,
 - b. Types of earned income specifically disregarded by provisions of this Article.
 3. Persons whose earned income receives the disregard.
 - a. The \$30+1/3 disregard applies to the total gross earned income of all persons who are members of the AFDC assistance unit and whose needs are included in the assistance grant.
 - b. The disregard does not apply to the income of persons whose income is included in the AFDC grant computation but who are not members of the assistance unit and whose needs are not included in the AFDC assistance grant.
- B. Computing the \$30+1/3 disregard. The \$30+1/3 earned income disregard includes the first \$30 of the total gross earned income of members of the AFDC assistance unit, plus 1/3 of the remainder.
- C. Eligibility for the disregard
 1. For initial applications.
 - a. Receipt of prior assistance. If a member of an assistance unit which files an application for AFDC has received AFDC assistance in any of the 4 months preceding the month of application, the \$30 + 1/3 disregard will automatically be allowed, both for determining eligibility and for determining payable grant amount, on every budget on which there is earned income of an assistance unit member.
 - b. No prior assistance. If no member of an assistance unit which files an AFDC application has received AFDC assistance within the 4 months prior, the following procedures will apply:
 - i. Needs-Test procedure. A preliminary budget computation ("Needs-Test") will be performed to determine eligibility only: To see if the assistance unit would have at least \$1 of unmet need without allowing the \$30+ 1/3 disregard on the budget.
 - ii. Eligible on Needs-Test. If the Needs-Test is passed and the assistance unit would be eligible for at least \$1 even without the disregard, the disregard will be allowed on every budget where there is earned income of an assistance unit member to determine both eligibility and payable grant amount.
 - iii. Ineligible on Needs-Test. If, however, the assistance unit is found to have a 0 grant amount on the Needs-Test, the \$30+1/3 disregard cannot be allowed on the earned income of the month of application and assistance for that month must be denied on the basis of financial ineligibility.

- iv. Reconsideration. If assistance must be denied for the initial month, the eligibility of the assistance unit may, however, be reconsidered for the following month using the income of that month and repeating the same Needs-Test procedure.
- 2. For active, ongoing cases. Eligibility for the disregard. The \$30 + 1/3 disregard will be applied to the combined total gross income of all persons whose needs are included in the AFDC assistance grant to determine eligibility and compute the assistance grant for each month the case remains in active status.
- D. Ineligibility for the disregard.** The \$30 + 1/3 disregard will not be allowed for a given month on the gross income of an applicant or recipient who:
 - 1. Terminated employment or reduced the applicant's or recipient's income without good cause within 30 days preceding that month, or
 - 2. Refused, without good cause, within 30 days of that month to accept employment which the applicant or recipient was able to perform and which was offered through the Department's employment offices or in any other manner by an employer which the Department considers to have been a bona fide offer.

Historical Note

R6-13-316 recodified from A.A.C. R6-3-316 effective February 13, 1996 (Supp. 96-1).

R6-13-317. Reserved**R6-13-318. Budgeting**

The Department shall determine eligibility and compute the amount of the assistance for a benefit month based on the best estimate described in R6-13-314 of income and circumstances which will exist in that same month.

Historical Note

R6-13-318 recodified from A.A.C. R6-3-318 effective February 13, 1996 (Supp. 96-1).

R6-13-319. Consolidated Standards of Need

- A. Consolidated standards.** Grants for AFDC, GA and TC are computed by using 1 of 2 consolidated standards of need: The A-1 standard of the A-2 standard.
- B. The A-1 standard**
 - 1. The A-1 standard will be used for assistance units which have the obligation to pay, or do pay -- either in part or in full -- any of the following housing expenses:
 - a. Rent;
 - b. Room, or room and board (but not board alone);
 - c. Mortgage or other lien on homestead;
 - d. Property tax on homestead;
 - e. Any city, county, or state fee or tax on property used as residence (such as trailer parking permit or similar).
 - 2. The obligation pay, or the payment, must be at least in part cash (not solely in kind).
 - 3. The person who is obligated to pay, or who does pay, may be any member of the assistance unit, whether eligible or ineligible for the month. The definition of an assistance unit and its members is found in R6-13-320(F).
 - 4. The A-1 standard must also be used if:
 - a. The assistance unit resides in public housing under HUD Sections 8 or 23, or
 - b. The payee or his spouse is an SSI recipient.
- C. The A-2 standard.** The A-2 standard will be used for:

- 1. Assistance units without any obligation to pay any of the housing expenses listed in subsection (B)(1) above; or
- 2. Assistance units whose housing expense is paid only in-kind, with no part in cash; or
- 3. When the housing expense is fully paid, on an ongoing basis, by a person not a member of the assistance unit, directly to the landlord or lienholder. Such payments will be considered ongoing if they have been so paid for at least 3 consecutive months.

Historical Note

R6-13-319 recodified from A.A.C. R6-3-319 effective February 13, 1996 (Supp. 96-1).

R6-13-320. Policies Applicable to All Grants

- A.** The minimum assistance grant authorized is \$1.
- B.** Grants will be made in whole dollar amounts and will be rounded upward to the next whole dollar amount.
- C.** An SSI recipient and the recipient's needs, income, and resources shall not be considered in computing an AFDC, GA, or TC grant.
- D.** Emergency assistance paid to an applicant in any given month shall be deducted from the assistance grant for that month.
- E.** If the applicable income of an assistance unit meets or exceeds its adjusted need for that month, the assistance unit will be determined to be financially ineligible for assistance.
- F.** Each assistance unit and program will be budgeted separately, regardless of the number of assistance units residing together.
 - 1. An "assistance unit" is defined as an applicant-payee plus all those persons for whom the applicant-payee can request and receive assistance in accordance with the "specified relative" provisions of R6-3-407.
 - 2. Whenever 2 or more persons eligible for assistance can be included in 1 single assistance unit and grant as defined above, 2 or more separate assistance units and grants cannot be authorized.

Historical Note

R6-13-320 recodified from A.A.C. R6-3-320 effective February 13, 1996 (Supp. 96-1).

R6-13-321. Computing the Assistance Grant

Factors determining grant amount. The following factors enter into a budget computation to determine eligibility and/or grant amount:

- 1. Status. The status of the assistance unit, which consists of:
 - a. Program. The program for which assistance is requested or received (AFDC, GA, or TC);
 - b. Persons. The total number of persons in the assistance unit whose eligibility is being considered;
 - c. Standard. The standard of need, determined by shelter-cost obligation (A-1 or A-2);
- 2. Need. The budgeted need of the assistance unit for a given month, as determined by its status (program, persons, and standard);
- 3. Percentage. The percentage factor, which converts budgeted need to adjusted need, and which depends on the program;
- 4. Income. The countable income of the assistance unit;
- 5. Disregards. Applicable disregards on countable earnings (cost of employment and the \$30+1/3 disregard);
- 6. Emergency assistance. Amounts of EA issued to the assistance unit: Deducted to determine payable grant amount for intake months only.

Historical Note

R6-13-321 recodified from A.A.C. R6-3-321 effective February 13, 1996 (Supp. 96-1).

R6-13-322. Computing Hardship Supplement

- A.** Eligible months. Every AFDC assistance unit will be informed that it may request a Hardship Supplement (HS) in any month in which the AFDC case is in active status (including months in which the grant is suspended).
- B.** Application for HS. The AFDC payee must file a Request for Hardship Supplement. The date of the request is the day it is received in the local DES office.
- C.** Issuance of HS. If the assistance unit is found eligible, the HS must be issued within 5 working days of the request.
- D.** Ineligibility. If the assistance unit is found ineligible for HS, a decision letter will be issued within 5 days of the request citing the reasons for denial.
- E.** Reapplication for HS. A request for HS is valid only for the 1 month filed. An AFDC unit may refile requests for HS in any months it feels a hardship exists due to any reduction in income (grant amount and/or other income). Denial or approval of HS in any given month has no bearing on HS eligibility for any future month.
- F.** Computation. The HS amount will be computed as follows. Assume, in the following, that the request for HS to be computed was received by the local office on any day in the month of June (the request month):
1. The assistance program will be HS.
 2. The HS budget computation will reflect the same standard of need (A-1 or A-2, as set forth in R6-13-319) and the same number of eligible persons as already shown on the regular AFDC budget effective for the request month (June).
 3. The HS budgeted need item will reflect the adjusted need (not the budgeted need) as already shown on the regular AFDC budget effective for the request month (June).
 4. The HS percentage of need will always be 90%.
 5. The HS budgeted need figure (the same as the AFDC adjusted need for the month) will be multiplied by the 90% factor to yield the HS adjusted need. The resulting HS adjusted need figures will be found, pre-computed, on the HS Adjusted Need Table in subsection (H) below.
 6. The HS budget will then consider all the countable income which the assistance unit has received and anticipates receiving from the 1st day through the last day of the request month (June). The computation will then proceed in the same order as set forth in R6-13-318(A)(5) through (9).
 7. Income disregards, including total or partial disregards, the COE and the \$30+1/3 disregard, will be allowed or

disallowed under exactly the same conditions as for regular AFDC assistance grants.

8. In addition, the amount of the regular AFDC grant already paid, or to be paid, for the current month (June) must be considered in full as unearned income on the budget computation.
 9. The grant figure resulting from the computation above is the amount of the HS to be issued. Fractions of a dollar will be rounded up to the next whole dollar.
 10. If the actual income of the assistance unit, when finally verified at the end of the request month, is not equal to the total anticipated income used on the HS budget, no adjustment in the HS is necessary, and the HS amount paid will not be considered in error.
 11. The amount or accuracy of a HS does not affect the correctness or the amount of the regular AFDC grant for the same month or any other month.
 12. Hardship Supplements (issued in active months only) are not to be confused with Emergency Assistance (issued in intake months only). While EA must be subtracted from the regular AFDC grant amount for the current month of issuance, HS must never be considered as countable income and must never be subtracted on the regular AFDC grant budget for the current or for any future month.
 13. The actual countable income of the assistance unit, when finally reported and verified at the end of a month in which a HS has been requested or paid (for example, June) will be used, as usual, to compute the regular AFDC assistance grant for the 2nd month following (August) in accordance with standard ongoing budgeting procedures as set forth in R6-13-318(D). The fact that part or all of this income has already been considered to compute the HS (for June) has no bearing or effect on the budgeting of the regular AFDC grant for the 2nd month following (August), and such income is not to be disregarded on this basis.
- G.** Appeal for hearing
1. A person may appeal the denial of a HS within 10 days following the issuance of the decision letter.
 2. A person may appeal the correctness of an HS amount within 10 days following issuance of the HS.
 3. The same appeals procedure as for EA will apply.
- H.** HS Adjusted Need Figures Table. The following HS need figures will be used in computing all HS budgets:

Number of Persons	A-1 Standard AFDC Grant Adjusted Need	HS Adjusted Need	A-2 Standard AFDC Grant Adjusted Need	HS Adjusted Need
1	111	100	80	72
2	153	138	120	108
3	199	180	156	141
4	240	216	187	169
5	274	247	217	196
6	306	276	247	223
7	339	306	274	247
8	365	329	301	271
9	391	352	327	295
10	418	377	353	318

To compute the HS adjusted need figure for assistance units of more than 10 persons, determine the proper AFDC adjusted need figure (not the budgeted need), then multiply it by 90%

Historical Note

R6-13-322 recodified from A.A.C. R6-3-322 effective February 13, 1996 (Supp. 96-1).

ARTICLE 4. RESERVED**ARTICLE 5. RESERVED****ARTICLE 6. SUPPLEMENTAL PAYMENTS PROGRAM****R6-13-601. Definitions**

For the purpose of the Supplemental Payments Program, the following definitions apply:

1. "Case manager" means a person who is responsible for applying the uniform functional assessment process to determine a client's need for services and administering the services for eligible clients.
2. "Essential shopping and errands" means shopping for and storing household supplies and medicines.
3. "Home health aid" means providing personal care and medical maintenance, continued treatment, or supervision required by applicable laws and regulations, within the person's place of residence.
4. "Housekeeping services" means providing help with housekeeping, housework, laundry, essential shopping, errands, and meal preparation.
5. "Housework" means assistance in the performance of activities related to routine household maintenance including the following tasks: cleaning walls, floors, bathrooms, windows, kitchen, and appliances; washing dishes; dusting; changing linens; and making beds. It may also include yard work, such as cleaning and mowing yard and hauling away debris; hauling water for daily use; gathering and hauling firewood for household heating or cooking; caring for livestock used for personal consumption; caring for a garden used for personal consumption; and turning heating and cooling systems on and off.
6. "Laundry" means washing, drying, and folding or hanging clothing and household linens. Ironing is included if clothes are too wrinkled to be presentable.
7. "Meal preparation" means planning, cooking, and storing food.
8. "Medical finding" means verification by a medical practitioner of a medical condition which may necessitate visiting nurse service or home health aid.
9. "Need for services" means the person has been determined by the Department to be functionally impaired in sufficient degree as to require the designated service. A person does not "need" the specified service when the facility in which the person resides or receives care provides the specified service.
10. "Payable from another source" means payments from Medicare, Arizona Health Care Cost Containment System, private insurance, Medicaid, or other private or public funds.
11. "Service provider" means an entity contracting with the state of Arizona to provide housekeeping services, home health aid services, or visiting nurse service.
12. "Uniform functional assessment process" means a process approved by the Department which measures a person's need for services because the person cannot perform activities of daily living based upon criteria which include physical or mental illness, prescribed medication, sensory impairment, disability, incapacity, psychosociological skills, interpersonal skills, assistance devices required, and available support systems.
13. "Visiting nurse service" means providing medical maintenance, continued treatment, or supervision of a treatment plan by a registered nurse or a licensed practical nurse as required by applicable laws, regulations and rules within the individual's place of residence.

Historical Note

R6-13-601 recodified from A.A.C. R6-3-601 effective February 13, 1996 (Supp. 96-1).

R6-13-602. Limitations

- A. Any person eligible for supplemental payments as a resident of a private or county nursing home shall be ineligible to receive supplemental payments from the Department for housekeeping services, visiting nurse service, or home health aid.
- B. Any person eligible for supplemental payments as a resident of a licensed supervisory care home or certified adult foster care home shall be ineligible to receive supplemental payments from the Department for housekeeping services.
- C. Housekeeping services. A payment of \$70 per month shall be made by the Department to or on behalf of a person who is determined to need such services, who is eligible for and receives Supplemental Security Income, and who is approved eligible by the Department through a uniform functional assessment process approved by the Department. The Department shall determine whether the person, because he has a physical or mental illness or impairment, needs at least 1 of the following services: housework, laundry, essential shopping and errands, or meal preparation. Resources otherwise available to the client shall be considered in determining need.
 1. Recipients of direct payment for housekeeping services shall be subject to monitoring and reassessment by the Department.
 2. The recipient or the recipient's legal representative shall notify the Department, within 10 calendar days, of any change in income, resources, or medical need.
 3. Supplemental payments for housekeeping services shall not be made to or for the benefit of an otherwise eligible person who resides in a publicly or privately operated residence that provides house cleaning, laundry, essential shopping, errands, and meals as part of the basic service.
- D. Payments for visiting nurse service or home health aid shall be made only to the service provider; payment to the eligible recipient is not permissible.

Historical Note

R6-13-602 recodified from A.A.C. R6-3-602 effective February 13, 1996 (Supp. 96-1).

R6-13-603. Coordination of Services with Arizona Long-term Care System

- A. Upon receipt of notice from Arizona Health Care Cost Containment System that a person currently receiving services under this Article has applied for and been found eligible for Arizona Long-term Care System services, the Department shall notify the assigned case manager so that the information can be verified with the client.
- B. The case manager and the client shall provide information to the Department, on a form supplied by the Department, that services from Arizona Long-term Care System are being received by the client. The form shall include the following information:
 1. Name, address and Social Security number;
 2. The date that services from Arizona Long-term Care System began;
 3. Current state Supplemental Payments Program funds or services received;
 4. Case manager's signature, signifying that the contents of the form are true to the best of the case manager's knowledge;
 5. Client's signature; or, if the client cannot sign, the signature of an authorized representative; or the client's mark

which is witnessed, with the witness' signature. If the client refuses to sign, this shall be noted;

6. The expected date of termination of state Supplemental Payments.

- C. The client shall be informed, through a written notice, when the Department intends to terminate payments or services under the provisions of this Article. The case manager shall provide at least 10 days' notice before termination of benefits following receipt of notice that Arizona Long-term Care services have begun.

Historical Note

R6-13-603 recodified from A.A.C. R6-3-603 effective February 13, 1996 (Supp. 96-1).

R6-13-604. Right of Appeal

If a client is dissatisfied with an action or decision affecting the client under this Article, the client has the right to appeal under the provisions of R6-13-1208. For purposes of this Article "local office" or "district office" as set forth in R6-13-1208 means Aging and Adult Administration.

Historical Note

R6-13-604 recodified from A.A.C. R6-3-604 effective February 13, 1996 (Supp. 96-1).

ARTICLE 7. GENERAL ASSISTANCE

R6-13-701. State General Assistance Program

- A. Unemployability. A person may qualify for the state General Assistance Program (GA) on the basis of unemployability due to medical disability alone, or medical disability in combination with social disability, or as a caretaker for a disabled person.
 1. Medical disability is defined as inability to engage in substantial gainful employment by reason of a medically determinable physical or mental impairment which has lasted, or is expected to last, at least 30 continuous days from the date of the GA application.
 2. Substantial gainful employment is defined as any work of a nature generally performed for remuneration or profit, involving the performance of significant physical or mental duties, or a combination of both.
 3. Social disability is defined as any non-medical impairments or deficiencies -- such as advanced age, lack of education, or employment history -- which, in combination with medical disability, would further serve to limit employability.
 4. For GA eligibility purposes, a person shall be considered unemployable due to disability in a calendar month in which any of the criteria listed in subsection (B) or (C) are met.
 5. Provided all eligibility factors are met, assistance shall be granted for months in which any of the unemployability criteria in subsection (B), (C), or (D) are met beginning from the date of application up to and including the full calendar month in which the unemployability ends.
- B. Categorical medical disability. A person is categorically considered to be medically disabled if any of the criteria listed below are met either singly or in combination. If so,
 1. The determination of disability can be made by the Family Assistance Administration (FAA) local office; and
 2. There is no need to secure further medical verification or to refer the case to the District Medical Consultant (DMC) for a determination; and
 3. There is no need to consider social disability factors:
 - a. RSDI-Disability. The person is determined by the Social Security Administration (SSA) to be eligible

for Retirement, Survivors, Disability Insurance (RSDI) benefits based on disability;

- b. SSI. The person is determined by SSA to be eligible for Supplemental Security Income (SSI) on the basis of disability;
 - c. VA. The person is determined by the Veterans Administration (VA) to have at least a 50% disability whether or not service related;
 - d. Drug and alcoholic rehabilitation. The person is residing in a clinic or center and is engaged in a drug-abuse rehabilitation or alcoholic detoxification or rehabilitation program provided that repayment is either required or will be accepted in part or in full by the rehabilitation clinic or center;
 - e. Vocational rehabilitation. The person is both
 - i. An eligible VR client, and
 - ii. Is currently under an Individual Written Rehabilitation Plan (IWRP) of the Arizona state VR Agency;
 - f. Hospitalized. The person is hospitalized in any hospital, whether public or private, for any physical or mental ailment;
 - i. However, the person is not GA-eligible if the hospital meets the person's basic needs of shelter, food, and medication;
 - ii. As an exception to the provision above, a person in a hospital which meets the person's basic needs may receive GA for not more than 3 months if paying rent or mortgage to retain a residence which to return to after release;
 - g. Conditional release. The person has been released from a hospital and the physician has imposed work restrictions during a specified recuperation period or certifies the person is permanently disabled;
 - h. Termination of employment. The person has been required, either by the employer or by a physician, to terminate employment due to the onset of a disability, and a physician has specified a recuperation period or certifies the person is permanently disabled. Whether the disability is job-related, or whether the person is capable of other employment is immaterial;
 - i. Pregnancy. The woman is in her last trimester of pregnancy and does not meet the qualifications for Aid to Families with Dependent Children (AFDC) Pregnancy benefits;
 - j. Sheltered workshop. The person is employed in a sheltered workshop, or deemed capable of working only in a sheltered workshop;
 - k. Prior certification. The person, at the time of application or reapplication, has in the person's case record a prior certification of disability, either by the Department, SSA, or VA, which is still currently valid. The certification may be for a specified duration, or for permanent disability -- so long as it covers the current months for which assistance is requested and received.
- C. Medical and social disability. If a person does not meet any of the categorical criteria in subsection (B) above, the person may qualify for assistance on the basis of at least 1 medical disability, either physical or mental, in combination with 1 or more social disability factors.
 1. Medical disability factors. The medical disability factor or factors do not need to be of the same severity as required for categorical eligibility in subsection (B) above but shall constitute the primary cause of the per-

- son's unemployability. The medical factors, in combination with the social disability factors, shall cause the person to be unemployable -- that is, incapable of engaging in substantial gainful employment.
2. Social disability factors. Any social disability factors, which, in combination with medical disability factors, would further serve to render the person unemployable shall be considered by the Department. These include but are not limited to:
 - a. Age,
 - b. Education,
 - c. Employment history,
 - d. English (ability to speak or understand spoken English),
 - e. Literacy (ability to read or write English)
 3. Determinations.
 - a. Determinations in this category shall not be made by the FAA local office but only by the District Medical Consultants in consultation with employment and rehabilitation specialists of the Department.
 - b. In making these determinations, the Department shall consider whether the person is able to engage in any employment for which the person could qualify, whether the person's last job, or any prior job, or any other job, the person could do within the person's residual capabilities, and which currently exists in the national economy. If so, the person shall be determined employable. If not, he shall be determined unemployable.
- D. Caretakers.** A person may qualify for GA as an unemployable caretaker if the person is required to remain in the home to give care to a disabled person. The need for such care shall be verified by a physician.
- E. Homemakers.**
1. A person may qualify for GA as a disabled homemaker if the person meets any of the criteria listed in subsections (B), (C), or (D) above, irrespective of prior work history.
 2. That is, a person is not disqualified from GA assistance solely because the person has never been employed or self-employed.
- F. Employment while disabled.**
1. A person deemed unemployable shall not be disqualified from assistance solely because the person continues or takes up gainful employment while being considered for or while receiving GA assistance.
 2. Any earnings shall be considered on the budget to determine financial eligibility.
- G. Acceptance of medical treatment.** A person is not required, as a condition of GA eligibility, to accept treatment recommended by examining physicians or medical consultants of the Department.
- H. Referral to and cooperation with VR.**
1. A person is not required, as a condition of GA eligibility, to accept referral to, or cooperate with, Vocational Rehabilitation.
 2. A person may be referred to VR by examining physicians or by medical consultants of the Department, or may voluntarily request referral.
- I. Application for RSDI or SSI.** A person who is found by the Department to meet the disability criteria for RSDI or SSI shall, as a condition of GA eligibility, apply for such benefits.
- J. Citizenship and alienage.** To receive GA a person shall either be a U.S. citizen, or an alien legally admitted for permanent residence, or otherwise residing in the U.S.A. under color of law.
- K. Arizona residency.** To receive GA, a person shall be a resident of Arizona. A resident is a person who:
1. Is residing in Arizona, and
 2. Intends to continue residence in Arizona.
- L. Social Security Numbers (SSN).** As a condition of GA eligibility, a person shall present verification of the person's SSN or apply for an SSN. If for any reason SSA cannot grant an SSN to an SSN applicant, this shall not adversely affect GA eligibility.
- M. Assets and resources.** (Limitations on assets and resources are listed in A.R.S. § 46-233(A)(5))
- N. Age.** GA shall not be granted to any person under age 18. There is no maximum age limit.
- O. Members of AFDC assistance units.** GA shall not be granted to any person who meets the description of an AFDC assistance unit member as defined in R6-13-320(F)(1) and A.A.C. R6-3-407. This same restriction applies regardless of whether the person is AFDC eligible or ineligible for the month.
- P. Reservation Indians.**
1. GA cannot be granted to a reservation Indian residing on the Indian's own or any other Indian reservation. Reservation Indians shall be referred to BIA for assistance.
 2. However, Indians residing off-reservation may receive GA.
- Q. Redeterminations.**
1. A redetermination (review of all eligibility factors subject to change) shall be conducted no less often than once every 6 months counting from the 1st month of eligibility.
 2. However, a review of unemployability factors in subsection (B), (C), or (D) shall be conducted upon the expiration of the certification period as indicated by the physician or the DMC of the Department.
 3. Once it is determined by the Department that a person is unemployable per subsection (B), (C), or (D) for 6 months or more, such a determination shall not be reversed unless it is based upon substantial new evidence not considered by the prior DMC.

Historical Note

R6-13-701 recodified from A.A.C. R6-3-701 effective February 9, 1996 (Supp. 96-1).

Editor's Note: The following Article heading was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

ARTICLE 8. SHORT-TERM CRISIS SERVICES

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-3-801. Definitions

The definitions in A.R.S. § 46-241 and following definitions apply in this Article.

1. "Basic necessities" means the situations or possessions necessary to maintain a safe and healthy living environment, including shelter, food, and clothing.
2. "Child" means a person under the age of 18 years.
3. "Contract" means an executed agreement with specified terms and limits between the Department and a government agency or a private entity for the purposes of delivering goods or services for the Department for monetary reimbursement.
4. "Contract provider" means a public or private entity with which the Department has a contract to provide goods or services for recipients of short-term crisis services.
5. "Department" means the Department of Economic Security, Community Services Administration.
6. "Diagnosis" means an opinion rendered by a doctor of medicine, a doctor of osteopathy, or a psychologist certified by either the Arizona Board of Psychologist Examiners or by the Department of Education.
7. "Disabled person" means a person who has been diagnosed as having a physical or mental impairment which substantially limits 1 or more of that person's major life activities.
8. "Elderly person" means a person 60 years of age or older.
9. "Federal Poverty Guidelines" means the national guidelines which designate the amount of income that signifies poverty, and which are issued by the United States Department of Health and Human Services and published in the *Federal Register*.
10. "Homeless person" means a person who lacks a fixed, regular, and adequate nighttime residence, or a person who has primary nighttime residence in a building used for temporary sleeping accommodations but does not include a person who is imprisoned or otherwise detained in a government facility under federal or state law.
11. "Household" means all adults and children who reside together in the same dwelling.
12. "Major life activities" means activities necessary to care for one's self through performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.
13. "Resident" means a person who dwells and intends to remain in Arizona.
14. "Self-sufficiency Diversion Option" means cash assistance option offered to certain TANF applicants pursuant to A.R.S. § 46-353.
15. "Short-term Crisis Services" means a benefit which is distributed in the form of vendor payments or warrants, issued on behalf of an eligible household, for the household's basic necessities.
16. "TANF" means Temporary Assistance for Needy Families, which is assistance granted under section 403 of Title IV of the Social Security Act as it exists after August 21, 1996. (A.R.S. § 46-101(20)).
17. "Temporary sleeping accommodations" means a building that is publicly or privately operated for the purposes of providing overnight shelter to a homeless person or domestic violence victim and includes homeless shelters and domestic violence shelters.
18. "Unforeseen expenses" means living costs which were unexpected and cannot be avoided.
19. "Vendor agreement" means a written agreement between the Department and a provider of goods or services who has agreed to accept reimbursement from the Department on behalf of the short-term crisis services recipient.
20. "Work day" means Monday through Friday excluding Arizona state holidays.

Historical Note

R6-13-801 recodified from A.A.C. R6-3-801 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-802. Application Procedures

- A. To apply for short-term crisis services, an applicant shall:
 1. Participate in a face-to-face interview with an employee of the contract agency in the applicant's geographic area;
 2. File a written application on a Department form with the contract agency; and
 3. Provide the contract agency with the information listed in subsections (C) and (D).
- B. The completed application form shall contain the following information:
 1. For the applicant and all household members:
 - a. Name, address, and telephone number;
 - b. Personal information, including citizenship, residency, date of birth, social security number, gender, and ethnicity; and
 - c. Gross monthly countable income as defined in R6-13-805;
 2. Relationship of all household members;
 3. The short-term crisis service the household is requesting and the reason services are needed; and
 4. For all household members age 16 and older, an employment history for 30 days preceding the date of application; and
 5. The applicant shall provide information regarding the household members' application for short-term crisis services and TANF cash assistance during the 12 months preceding the date of application; and
 6. The applicant's signature and date of application.
- C. The applicant shall provide documentation of the employment history and countable income required by subsection (B)(1)(c) and (B)(4).
- D. The contract provider shall close an incomplete application if the applicant does not provide all required information within 5 days after the application postmark date.
- E. An applicant whose file has been closed and who later wants services shall submit a new application.
- F. Within 15 work days of the date of receiving a completed application, the contract provider shall send the applicant written notification of eligibility for services.

Historical Note

R6-13-802 recodified from A.A.C. R6-3-802 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was repealed and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the

Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-803. General Eligibility Requirements

- A.** To be eligible for short-term crisis services, a person shall:
1. Reside in the state of Arizona;
 2. Have an emergent need that can be met by the provision of at least 1 of the types of assistance defined in R6-13-807; and
 3. Lack income and resources to meet the emergent need.
- B.** The following persons are ineligible for short-term crisis services:
1. A Native American who resides on a reservation,
 2. A person being sanctioned by the TANF program, and
 3. A person receiving benefits under the self-sufficiency diversion option.

Historical Note

R6-13-803 recodified from A.A.C. R6-3-803 effective February 13, 1996 (Supp. 96-1). Section repealed; new Section R6-13-803 renumbered from R6-13-804 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-804. Financial Eligibility Requirements; Countable Income

- A.** To be eligible for short-term crisis services, a person must be in a household that meets the following requirements on the date of application:
1. The household's total gross countable monthly income for the previous 30 days, including the day the application does not exceed 125% of the Federal Poverty Guidelines; or
 2. For households with an elderly or disabled person, the household's total gross countable income for the previous 30 days, including the day of the application does not exceed 150% of the Federal Poverty Guidelines.
- B.** When determining financial eligibility, the Department shall include countable income of all household members except as provided in subsection (C). Countable income includes:
1. Earned income;
 2. Governmental cash benefits;
 3. Dividends over \$50 per month;
 4. Interest income over \$50 per month;
 5. Child support;
 6. Alimony;
 7. Net rental income;
 8. Annuities;
 9. Royalties;
 10. Strike benefits;
 11. Workers' compensation;
 12. Unemployment insurance benefits;
 13. Monthly payment from real property sales;

14. Proceeds from the sale of a house or car;
 15. Military allotments;
 16. Grants and scholarships that do not need to be repaid, excluding funds identified for tuition and books;
 17. Work-study money;
 18. Net gambling or lottery winnings;
 19. Lump sum payments;
 20. Mileage allowances; and,
 21. Cash gifts not specifically excluded in subsection (D).
- C.** Countable income does not include:
1. The value of food stamps;
 2. Any portion of an education grant or scholarship used for tuition and books;
 3. Earned income of a child under 16 years of age;
 4. Cash gifts of \$50 or less per month per household member;
 5. Tax refunds;
 6. Non-cash benefits provided on behalf of household member but not paid directly in the name of the household member, including vouchers for food, clothing, or housing;
 7. Loans that need to be repaid;
 8. Money which a household member receives and uses for the care and maintenance of a person who is not a household member;
 9. Stipends from senior companion programs; and
 10. Other income not specifically listed as countable.

Historical Note

R6-13-804 recodified from A.A.C. R6-3-804 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-803; new Section R6-13-804 renumbered from R6-13-805 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-805. Emergent Need Eligibility Requirements

In order to be eligible for emergency assistance, a person shall be in a household which is experiencing or which expects to experience:

1. Homelessness that was caused by 1 or more of the following:
 - a. Domestic violence;
 - b. Loss of income;
 - c. Unforeseen circumstances that increase the household's expenditures, making it impossible to meet budgeted expenditures without short-term crisis services; or
 - d. A condition that endangers the health or safety of a household member;
 - e. Other similar emergency situations.
2. Interruption of heating or cooling of the household's dwelling that was caused by:
 - a. Domestic violence,
 - b. Loss of or income,
 - c. Unforeseen circumstances that increased the household's expenditures making it impossible to meet the

following months' budgeted expenditures without short-term crisis services,

- d. A condition that endangers the health or safety of the household, or
- e. Other similar emergency situations.

Historical Note

R6-13-805 recodified from A.A.C. R6-3-805 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-804; new Section R6-13-805 renumbered from R6-13-806 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-806. Types of Assistance; Duration

- A. The Department, through its contract providers, shall provide short-term crisis services to alleviate or prevent homelessness through payments for:
 - 1. Emergency shelter at homeless shelter facilities, hotels, or motels;
 - 2. Rent or rental deposits to move homeless families into permanent housing;
 - 3. Rent or mortgage payments for household that anticipate homelessness; or
 - 4. Special needs necessary to continue or secure employment when no other resources are available. "Special needs" include auto repair, dental work, and eyeglasses.
- B. The Department shall provide short-term crisis services to alleviate or prevent the loss of heating or cooling through payments for:
 - 1. Utility bill assistance;
 - 2. Rent when utilities are included;
 - 3. Utility deposits; or
 - 4. Repair or replacement of appliances needed for a safe and healthy living environment, such as water heaters, cooking stoves, microwaves, furnaces, refrigerators, evaporative coolers, and water or sewer systems.
- C. A household is eligible to receive short-term crisis services only 1 time in a 12-consecutive-month period. The contract provider agency shall determine what specific short-term crisis services to provide a household based on the information in the household's application.

Historical Note

R6-13-806 recodified from A.A.C. R6-3-806 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-805; new Section R6-13-806 renumbered from R6-13-807 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and the new Section was renumbered and amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of pro-

posed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-807. Payments

- A. In a 12-month period, as described in R6-13-806(C), the Department payment on behalf of an eligible household shall not exceed the amounts listed in this Section.
 - 1. For emergency shelter at homeless facilities, no more than \$5,000.
 - 2. For utility assistance, the amount of the bill or \$500, whichever is less.
 - 3. For federally funded utility, repair or replacement and deposit, the actual cost or \$1,200, whichever is less.
 - 4. For state-funded utility repair, replacement, and deposit, the actual cost or \$600, whichever is less.
 - 5. For rent, rental deposits, or mortgage assistance, the actual cost or \$1,500 per household whichever is less.
 - 6. For special needs as described in R6-13-808(A)(4), the actual cost or \$500, whichever is less.
- B. The Department shall pay for all short-term crisis services through warrants to contract agencies or companies with which the contract agency has a written or verbal vendor agreement.

Historical Note

R6-13-807 recodified from A.A.C. R6-3-807 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-806; new Section R6-13-807 renumbered from R6-13-808 and amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-808. Notification

The contract agency which the Department has a written contract with shall be responsible for sending the applicant a decision letter upon determination of eligibility.

Historical Note

R6-13-808 recodified from A.A.C. R6-3-808 effective February 13, 1996 (Supp. 96-1). Section renumbered to R6-13-807; new Section adopted effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-13-809. Complaints, Hearings, and Appeals

- A.** The following decisions are appealable:
1. Denial of eligibility,
 2. The amount of assistance awarded, and
 3. Termination or reduction of assistance.
- B.** To appeal, an applicant shall file a written request for appeal with the contract agency, within 10 working days of the post-mark date of the letter denying eligibility or affecting benefits.
- C.** The Department shall conduct appeals pursuant to the procedures set forth in R6-13-1208(G) through (N).

Historical Note

R6-13-809 recodified from A.A.C. R6-3-809 effective February 13, 1996 (Supp. 96-1). Amended effective August 4, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

ARTICLE 9. TUBERCULOSIS CONTROL**R6-13-901. Purpose**

The purpose of the Tuberculosis program is to determine and provide assistance necessary for the support of a person who is certified unemployable by the state Tuberculosis Control Officer as a result of communicable tuberculosis and for that person's legal dependents.

Historical Note

R6-13-901 recodified from A.A.C. R6-3-901 effective February 13, 1996 (Supp. 96-1).

R6-13-902. Age

A Tuberculosis Control grant will not be issued if the person certified as tubercular is a minor, unless authorized by the district Public Assistance Program Manager.

Historical Note

R6-13-902 recodified from A.A.C. R6-3-902 effective February 13, 1996 (Supp. 96-1).

R6-13-903. Residence

- A.** The Department of Health Services is responsible for determination of residence.
- B.** Inter-county transfers are permitted.
- C.** Assistance may be granted out-of-state with Department of Health Services approval.

Historical Note

R6-13-903 recodified from A.A.C. R6-3-903 effective February 13, 1996 (Supp. 96-1).

R6-13-904. Citizenship

There is no citizenship requirement.

Historical Note

R6-13-904 recodified from A.A.C. R6-3-904 effective February 13, 1996 (Supp. 96-1).

R6-13-905. Limitations on Value of Real and Personal Property

The following resource limitations apply:

1. Household furnishings used in the usual place of residence;
2. Wearing apparel and necessary personal effects;
3. A home in which the recipient resides and land contiguous thereto which has a gross market value not in excess of \$25,000;
4. An automobile with a gross retail market value of \$1,200 or less. If such value exceeds \$1,200 the excess value shall be counted against other property or assets specified in subsection (6);

5. Tools of trade;
6. Other property or assets having a total gross market value of \$1,000 for a single recipient or \$1,400 for a recipient and spouse, or 2 or more recipients in a single household;
7. Real and personal property shall be valued at their gross market value.

Historical Note

R6-13-905 recodified from A.A.C. R6-3-905 effective February 13, 1996 (Supp. 96-1).

R6-13-906. Transfer of Property

Transfer of property does not affect eligibility.

Historical Note

R6-13-906 recodified from A.A.C. R6-3-906 effective February 13, 1996 (Supp. 96-1).

R6-13-907. Employability

Employability is determined by the Department of Health Services.

Historical Note

R6-13-907 recodified from A.A.C. R6-3-907 effective February 13, 1996 (Supp. 96-1).

R6-13-908. Receipt of Other Public Assistance

When a recipient with dependents is eligible for AFDC as well as TC:

1. The maximum allowable from the AFDC program will be granted.
2. Any unmet need will be provided by a TC grant up to 100% of allowable need.

Historical Note

R6-13-908 recodified from A.A.C. R6-3-908 effective February 13, 1996 (Supp. 96-1).

R6-13-909. Institutional Status

- A.** A TC grant will be made for personal care expense to eligible recipients receiving care in an institution.
- B.** Department of Health Services approval is required.
- C.** The amount of the grant will be according to the assistance standard.

Historical Note

R6-13-909 recodified from A.A.C. R6-3-909 effective February 13, 1996 (Supp. 96-1).

R6-13-910. Diagnosis and Treatment

- A.** The physician treating the case is responsible to determine whether contagious tuberculosis exists.
- B.** Decisions of eligibility for care and treatment are made by the Department of Health Services.

Historical Note

R6-13-910 recodified from A.A.C. R6-3-910 effective February 13, 1996 (Supp. 96-1).

R6-13-911. Referral of Cases to the Department of Economic Security

- A.** The local Department of Health Services initiates referrals for Tuberculosis Control financial assistance.
- B.** After acting on an application for TC, the local DES office will notify the Department of Health Services of the decision reached.
- C.** When the Department of Health Services refers the case and it is shown that the patient resides at home, no other approval is required for home care.
- D.** Approval for institutional care must be given by the Department of Health Services.

Historical Note

R6-13-911 recodified from A.A.C. R6-3-911 effective February 13, 1996 (Supp. 96-1).

R6-13-912. Foster Home Care

Placement of the children of tubercular parents or relatives in Foster Care is a Social Services Bureau program.

Historical Note

R6-13-912 recodified from A.A.C. R6-3-912 effective February 13, 1996 (Supp. 96-1).

R6-13-913. Return of Nonresidents

The Tuberculosis Control Officer of the Department of Health Services will contact DES, other agencies, or relatives when a tuberculosis patient is to be sent outside of the state.

Historical Note

R6-13-913 recodified from A.A.C. R6-3-913 effective February 13, 1996 (Supp. 96-1).

R6-13-914. Computing the Tuberculosis Control Grant

The assistance grant shall be equal to the budgetary need amount, minus countable income. An Eligible Recipient means the medically eligible person and the person's legal dependents who reside in a home maintained by the family, regardless of whether the medically eligible person is present in the home, providing such dependents do not have their total needs met from another source or from another assistance grant.

Historical Note

R6-13-914 recodified from A.A.C. R6-3-914 effective February 13, 1996 (Supp. 96-1).

R6-13-915. Termination of the Tuberculosis Control Grant

When the Department of Health Services notifies the local DES office that a TC grant is to be stopped, it will be stopped in the specified month.

Historical Note

R6-13-915 recodified from A.A.C. R6-3-915 effective February 13, 1996 (Supp. 96-1).

R6-13-916. Termination of TC Grant with AFDC Grant Continuing in Household

Incapacity must be established if AFDC is to be continued.

Historical Note

R6-13-916 recodified from A.A.C. R6-3-916 effective February 13, 1996 (Supp. 96-1).

R6-13-917. Overpayment

In the Tuberculosis Control Program, overpayments will be reported but not collected unless repaid voluntarily.

Historical Note

R6-13-917 recodified from A.A.C. R6-3-917 effective February 13, 1996 (Supp. 96-1).

R6-13-918. Vendor Payments

A vendor payment will be made only when transportation is furnished.

Historical Note

R6-13-918 recodified from A.A.C. R6-3-918 effective February 13, 1996 (Supp. 96-1).

R6-13-919. Redeterminations

Tuberculosis Control cases must be review each 6 months.

Historical Note

R6-13-919 recodified from A.A.C. R6-3-919 effective February 13, 1996 (Supp. 96-1).

R6-13-920. Available Services

Basic services in the Tuberculosis Control program are:

1. Meeting financial need of eligible persons,
2. Services related to treatment and home supervision are the responsibility of the Department of Health Services.

Historical Note

Former Rule 3-924; Former Section R6-3-920 repealed, new Section R6-3-920 adopted effective March 26, 1976 (Supp. 76-2). R6-13-920 recodified from A.A.C. R6-3-920 effective February 13, 1996 (Supp. 96-1).

R6-13-921. Right of Appeal

An applicant or recipient who is dissatisfied with a decision on the applicant's or recipient's case has the right to appeal.

Historical Note

R6-13-921 recodified from A.A.C. R6-3-921 effective February 13, 1996 (Supp. 96-1).

R6-13-922. Reporting Change of Status

An applicant or recipient shall report, within 10 days from the date the change occurs, all changes in current income, resources, and any other circumstances which may affect eligibility or the amount of the assistance payment.

Historical Note

R6-13-922 recodified from A.A.C. R6-3-922 effective February 13, 1996 (Supp. 96-1).

ARTICLE 10. RESERVED**ARTICLE 11. RESERVED****ARTICLE 12. OTHER PROCEDURES AND SERVICES****R6-13-1201. Confidentiality**

- A. Confidential information to be safeguarded. No information concerning an applicant or recipient, whether contained in client case records, or in any other records of the Department, or known to employees of the Department, will be disclosed to any party except as specified in provisions of this Article.

Examples: Such information includes, but is not limited to, the names and addresses of clients or the amount of assistance provided; information related to the social and economic conditions or circumstances of a client; medical data, including diagnosis and past history of disease or disability concerning a client.

- B. Release of information. The use or disclosure of information concerning a client shall be limited to the client, or to persons or agencies subject to confidentiality restrictions comparable to those of the Department and for purposes directly related to the administration of Public Assistance programs (such as establishing eligibility, determining the amount of the grant, providing services, taking legal actions on behalf of the Department or a federal public assistance agency, etc.).

- C. Authorized parties: Unless specifically otherwise restricted, safeguarded information may be released to the following parties and only under the conditions here specified:

1. The client. An applicant or recipient may view the contents of the applicant's or recipient's case record at any time, provided a member of the Department is present during the examination of the case record. However, a dependent child may view the case record in which the child is included as a recipient only with the written permission of the child's parent or other caretaker relative.
2. Employees of the Department. For official purposes, employees of the Department may view case records and transmit safeguarded information, without the client's

Department of Economic Security - State Assistance Programs

written or verbal consent, to other employees of the Department.

3. Social Security Administration. For official purposes, safeguarded information may be disclosed, without the client's written or verbal consent, to employees of the Social Security Administration.
4. Other public assistance agencies. For official purposes, the Department may release, without the client's written or verbal consent, case-record information to the public assistance or welfare agencies of any other state.
5. Title IV-D. Employees of the Department may release case record information, without the client's written or verbal consent, to county attorneys and to clerks of the courts for official purposes relating to Title IV-D child support enforcement.
6. Other law-enforcement officials. The Department may release, without the client's written or verbal consent, information to authorized officials for the purposes of an investigation, prosecution, or criminal or civil proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program. For any other purposes, the client's written authorization is required.
7. Contracted agencies. For official purposes, employees of the Department may give client information, with either the verbal or written consent of the client, to the social services components of agencies or institutions with which the Department has contractual agreements for the purpose of providing social, financial, or medical services.
8. Subpoena of records. In the event of a subpoena for a client's case record or for a Department employee to testify concerning a client, or a request for information from a governmental authority, the courts, or a law enforcement official, attention will be called through proper channels of the policies, rules, and regulations against the disclosure of information.
9. Disclosure to other parties. Safeguarded information relating to a client may be disclosed to other parties or agencies not here specified only with the client's specific written consent and authorization. An employee of the Department must be present at all times whenever a client's case record is being viewed.

Historical Note

R6-13-1201 recodified from A.A.C. R6-3-1201 effective February 13, 1996 (Supp. 96-1).

R6-13-1202. Transfer of Cases Between Cost Centers

An individual is not subject to any residence restriction within the state and will be given agency services in the place where the individual chooses to make a home.

1. Change of address. When a recipient moves out of the jurisdiction of a cost center, that cost center is responsible for processing the change of address.
2. Pending applications. A pending application will not be transferred from 1 district to another but may be transferred between cost centers within the same district.
3. Transfer of an active case. Upon notification from the recipient of a change of address from the jurisdiction of 1 cost center to another, the cost center receiving the notification will take appropriate action.
4. Transfer of closed cases. When an individual applies for assistance and the interview reveals prior agency contact with another cost center, a written request will be made

for transfer of the prior record with all other information available concerning the individual.

5. Transfer of suspended case. A suspended case may be transferred if the cost center making the request is aware of the case status.
6. Transfer transmittal. The case record being transferred will be identified by case number, SSN, and name, with a brief transmittal memorandum prepared in triplicate.

Historical Note

R6-13-1202 recodified from A.A.C. R6-3-1202 effective February 13, 1996 (Supp. 96-1).

R6-13-1203. State Warrants

Assistance grants are paid by warrants drawn on the State Treasury. Warrants are issued either directly to the eligible recipient or to a payee -- a protective payee, an emergency payee, a legal guardian, or to a vendor.

1. Missing or stolen warrants. Upon receipt of information that a recipient has not received the recipient's warrant, the recipient will be interviewed and required to complete a bond of indemnity.
 - a. When it has been determined that the warrant has been cashed, the Finance Division will send a photocopy of the signed warrant to the local office for a signature comparison. If the signature appears to be that of the recipient and the recipient denies signing the warrant, the matter will be referred to the Special Investigations Unit.
 - b. If the check apparently contains a forged signature, the recipient will complete an affidavit of forgery for issuance of another warrant.
2. Terminal warrants. Should a recipient die, only warrants signed by the recipient prior to death may be honored for payment by the State Treasurer. An exception is allowed when there is a legal guardian and the guardian can establish the recipient was alive on the date the warrant was received; in such case the guardian may endorse and cash the warrant.
3. Canceling or stopping warrants. The eligibility worker can request that a warrant not be mailed and be cancelled, or that payment of an already mailed warrant be stopped, if information received in the local office requires such action.
4. Mailing address for warrants. A recipient has the right to designate the address to which the recipient wishes the assistance warrant mailed, except that warrants may not be mailed to any Department of Economic Security office, or to the residence address of any employee of the Department. If the recipient has mail delivery to the place of residence, the recipient will be encouraged to use this address as the mailing address.
5. Clients signing by mark. Documents signed with an "X" or by a thumb print are acceptable if properly witnessed. The EW may serve as a witness.

Historical Note

R6-13-1203 recodified from A.A.C. R6-3-1203 effective February 13, 1996 (Supp. 96-1).

R6-13-1204. Guardianship

- A. Representation by legal guardian. A court-appointed (legal) guardian may legally represent the applicant and may apply for assistance and receive payment on behalf of the guardian's ward.
- B. Warrants. Warrants issued to legal guardians will be written in the following format: "John Smith, Guardian of John Doe."

The guardian will endorse the warrant for cashing the same as it is written.

Historical Note

R6-13-1204 recodified from A.A.C. R6-3-1204 effective February 13, 1996 (Supp. 96-1).

R6-13-1205. Reserved

R6-13-1206. Overpayments

- A. The Department will pursue collection of all Aid to Families with Dependent Children (AFDC) overpayments discovered on October 1, 1981, or on any following date. No waivers of repayment will be granted on such cases.
- B. The Department will pursue collection of all AFDC overpayments discovered prior to October 1, 1981, and all overpayments in the General Assistance (GA) and Supplemental Payments (SP) Programs. On such cases waiver of repayment can be granted in accordance with A.R.S. § 46-213(B).

Historical Note

R6-13-1206 recodified from A.A.C. R6-3-1206 effective February 13, 1996 (Supp. 96-1).

R6-13-1207. Special Investigations Unit

Arizona Revised Statutes provide for the establishment of a Special Investigations Unit within the Department of Economic Security.

1. This unit shall perform special investigative duties at any office in the state as may be assigned. Examples of these duties are:
 - a. Establish liaison with the various law enforcement agencies.
 - b. Investigate cases involving fraudulent receipt of assistance payments or food stamps and to prepare such cases for presentation to the County Attorney. Where necessary, the Special Investigations Unit investigator shall act as complaining witness for the Department.
 - c. Make and report on other types of investigations referred to the unit such as concealment of all types of assets or income, possible secret marriage, non-legal union relationships where extra income could be involved, and required assistance in child welfare cases.
 - d. Other duties, as assigned.
2. Local office responsibilities
 - a. Appropriate case records will be made available for examination by Special Investigations Unit representatives.
 - b. The local office will schedule interviews on cases selected by the Special Investigations Unit. If an applicant fails to keep the 1st appointment, a 2nd appointment will be made. If the recipient fails to keep this appointment, without cause, the grant will be suspended.
 - c. The local office will refer all applications or resumes of active cases to the Special Investigations Unit which have been closed or suspended as a result of an SIU investigation.
 - d. If a hearing is requested in a case where an application was denied or assistance discontinued as a result of a Special Investigations Unit investigation, referrals for further investigation are to be made to the Special Investigations Unit when the hearing request is received. These referrals should use Hearing Priority I as the reason for the investigation report.
 - e. It is the responsibility of the local office Eligibility Worker to submit any new information regarding the case.

3. Special Investigations Unit Responsibilities
 - a. The Special Investigation Unit will notify the local office of cases selected by them for interview.
 - b. The Special Investigations Unit will attempt to complete their investigations and report back to the local office within 20 days of the referral date. When it is impossible to meet this deadline, a memo of explanation will be sent to the local office and the case removed from "Priority I" status.
 - c. Upon completion of an investigation a report will be sent to the local office which made the referral. Also, interview reports will be made when the Special Investigations Unit deems it necessary.
4. Referrals to County Attorneys. All absent parent cases will be referred to County Attorneys by the Special Investigations Unit and not by the local office Eligibility Worker.

Historical Note

R6-13-1207 recodified from A.A.C. R6-3-1207 effective February 13, 1996 (Supp. 96-1).

R6-13-1208. Complaints, Hearings, and Appeals

- A. Complaints. Complaints may be filed only regarding matters not covered by Appeals, subsection (B) following. A complaint received relating to an appealable matter shall be treated as an appeal and considered filed as of the date the complaint was received.
 1. Treatment by local office. Verbal or written complaints shall be referred to the local office supervisor or to a person designated to act for the supervisor. The case will then be discussed with the assigned caseworker who shall attempt to work through the problem with the appellant, explaining the reason for the Department's action and attempting to resolve any difficulty relating to a possible appeal. If, after the conference is held at the local level, the appellant is still dissatisfied, an appointment may be made with the Program Manager or the person to whom responsibility for holding such conferences is delegated.
 2. Treatment by state Office. Complaints which are received in the state Office by telephone, or letter, or directly by visit of the appellant, may be handled by the state Office or referred to the Program Manager of the district in which the appellant resides.
 - a. Replies to letters shall be made using information available in the District Office and the local office.
 - b. Whenever there is contact between the state Office and the appellant regarding a complaint which could be an appealable matter, the appellant shall be reminded of the appeal procedure, and that the appellant need not pursue an informal complaint before filing an appeal.
- B. Basis for appeal. An appellant will be granted a hearing for any of the following reasons:
 1. Right to apply for assistance has been denied.
 2. Application is denied in whole or in part.
 3. Action on an application has not been taken by the Department within 45 days of the date of application for AFDC, 60 days for GA, or 30 days for SP or TC.
 4. Assistance is suspended, terminated, reduced, or otherwise withheld when such action has occurred as a result of an eligibility determination based on facts or judgment as applied to individual circumstances.
 5. The appellant disagrees that an overpayment has been made, or disagrees with the amount of the overpayment, or feels that the plan for repayment causes undue hard-

ship, or the appellant's request for a waiver has been denied.

6. A hearing will not be granted when either state or federal law requires automatic grant adjustments for classes of appellants, unless the reason for an individual appeal is incorrect grant computation or incorrect application of said law to the case.
 7. The Office of Appeals may deny or dismiss a request for hearing where a decision has been rendered after a WIDP hearing before the DES Appeals Board that a participant has, without good cause, refused to accept employment or participate in the WIDP program or has failed to request such a hearing after a notice of intended action for such refusal, or where it is abandoned.
- C. Timely filing of appeal**
1. Unless a written request for hearing is filed within 10 calendar days of the decision letter mailing date for the AFDC, SP, TC, or GA programs, the Department shall proceed to take the proposed action.
 2. Except as otherwise provided by statute or by Department regulations, any appeal submitted to the Department shall be considered received by and filed with the Department:
 - a. On the date it is mailed, if transmittal via the U.S. Postal Service or its successor. The mailing date will be as follows:
 - i. As shown by the postmark; or
 - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - iii. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 - b. On the date it is received by the Department, if not transmitted via the U.S. Postal Service, or its successor.
 3. The submission of any document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.
 4. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to the person's last-known address. The date mailed will be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, A.R.S. Volume 16
 5. If appeal is timely, benefits shall not be reduced or terminated prior to a hearing decision unless due to a subsequent change in household eligibility and another notice of adverse action is received and not timely appealed.
 6. If an appeal is filed after 10 days for the AFDC, SP, TC, or GA programs but within 20 days of the decision letter mailing date, the local office shall proceed to take the proposed action, the Office of Appeals shall hear the appeal and, if ruling is in the appellant's favor, any resulting under payment of benefits shall be restored to the appellant by retroactive payments. If appeal is filed at any time later than 20 days, the Office of Appeals shall deny the request for hearing unless good cause is shown for untimely filing.
 7. The local office shall advise the appellant of any community legal services available and, when requested, shall assist the appellant in completing the hearing request.

D. Appeal requests. Appeals for a hearing must be in writing. They can be filed by the appellant or by the appellant's designated representative and must be filed with the local office.

1. The local office must forward all requests to the Office of Appeals within 2 working days of receipt.
2. Emergency Assistance and Hardship Supplement appeals shall not be forwarded to the Office of Appeals but shall be handled by the local office supervisor or manager.
3. Before it can schedule a hearing, the Office of Appeals must be in receipt of:
 - a. The copy of the form or correspondence on which the hearing is requested, and
 - b. The Case Decision Notice, and
 - c. Any other written request or correspondence from the client or the client's representative related to the appeal.
4. Whenever a request is forwarded from the local office to the Office of Appeals, the forwarding action and date should be noted on the Case Actions Summary. The local office caseworker must complete all appropriate portions of hearing request forms requiring local office entries. A copy of the request will be retained in the appellant's case record. All documents concerning EA appeals will be retained in the case record.

E. Disability determination.

1. An appellant who bases an appeal on an adverse disability determination will be given the opportunity to have another medical examination prior to the hearing.
2. If the appellant wishes a medical examination prior to the hearing, the local office shall authorize and schedule it. The examination may be with a doctor chosen by the Department or by the appellant, but only by a licensed physician, psychologist, or psychiatrist.
3. At any time prior to issuing the decision, the Hearing Officer can authorize a special diagnostic evaluation by direct request to the District Medical Consultant, who will select an appropriate specialist.
4. The Hearing Officer may consider new medical evidence without referral to the Medical Consultant or may request the Medical Consultant to provide an evaluation of the above new medical evidence to the Hearing Officer, giving the Medical Consultant's recommendation concerning the appellant's disability and employability status.
5. The opinion of the District Medical Consultant shall be considered as expert evidence at the hearing but is not binding on the Hearing Officer.
6. All medical, social, and vocational reports, including reports from the Division of Vocational Rehabilitation, the Social Security Administration, and the Veteran's Administration, which are relevant to the determination of disability or employability, shall be considered by the Hearing Officer. A finding of ineligibility for Social Security disability shall not be considered as a basis for ineligibility for General Assistance.
7. The appellant's testimony as to the appellant's physical and mental condition or symptomatology shall be considered by the Hearing Officer.

F. Group hearings. The Department may respond to a series of individual requests for hearings by conducting a single group hearing.

1. Such hearings shall be limited to those cases in which the sole issue involved is 1 of state or federal law or policy.
2. Each individual appellant shall be permitted to present the appellant's own case or be represented by the appellant's authorized representative.

3. The individual appellant may withdraw from the group hearing and request and be granted an individual hearing.
- G. Notice of hearing**
1. Hearings shall be held at those regularly established hearing locations most convenient to the interested parties or at the discretion of the Hearing Officer. A hearing shall be scheduled not less than 10 nor more than 45 days from the date of filing of the request for hearing. The appellant shall be given no less than 10 days' notice of hearing, except that the appellant may waive the notice period or request a delay.
 2. The notice of hearing will inform the appellant of the date, time, and place of the hearing, the name of the Hearing Officer, the issues involved, and the appellant's rights to:
 - a. Present the case in person, by telephone, or through a representative; and
 - b. Copy any documents in the appellant's case file and all documents and records to be used by the agency at the hearing at a reasonable time prior to the hearings as well as during the hearing; and
 - c. Obtain assistance from the local office in preparing the case; and
 - d. Make inquiry at the local office about availability of community legal resources which could provide representation at the hearing.
 3. Notification shall be in writing, both to the appellant and to the local office on form US-037, Hearing Place Notice. If an appellant has good cause for being unable to attend a hearing once scheduled, the appellant must request a delay by either calling the local office or by writing directly to the Hearing Officer (P.O. Box 6123, Phoenix, Arizona 85005). The request must be received at least 5 working days prior to the hearing; otherwise the request may be denied. All scheduling is the responsibility of the Office of Appeals.
 4. The appellant, in lieu of a personal appearance, may appear by telephone or submit a written statement, under oath or affirmation, setting forth the facts of the case. The statement must be submitted to the Department with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal.
 5. The Hearing Officer may, on the Hearing Officer's own motion or at the request of any interested party upon showing of good cause, disqualify himself or herself, or continue the hearing to a future time, or reopen a hearing before a decision is final to take additional evidence.
 - a. If an interested party fails to appear at a scheduled hearing, the Hearing Officer may adjourn the hearing to a later date or may make a decision upon the record and upon such evidence as may be presented at the scheduled hearing.
 - b. If, within 10 days of the scheduled hearing, the applicant files a written request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing will be rescheduled. Notice of the time, place, and the purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.
- H. Prehearing summary**
1. A prehearing summary of the facts and grounds for the action taken shall be prepared by the local office and must reach the Hearing Officer no less than 10 days prior to the hearing.
2. A copy of the summary shall be made available to the appellant or to the appellant's representative prior to the hearing.
 3. The summary must be a typewritten report. Handwritten summaries are not acceptable. The summary must contain:
 - a. Appellant's name (and case name, if different); and
 - b. SSN (or case number, if different); and
 - c. Local office responsible; and
 - d. Brief summary of circumstances supporting the Department's action; and
 - e. Exact legal manual references used by the local office in its eligibility determination.
- I. Subpoena of witnesses**
1. The Hearing Officer may subpoena any witnesses or documents requested by the Department or appellant to be present at the hearing. The request shall be in writing and will state the name and address of the witness and the nature of the testimony. The nature of the witness' testimony must be relevant to the issues of the hearing; otherwise the Hearing Officer may deny the request.
 - a. The request for the issuance of a subpoena shall be made to give sufficient time -- a minimum of 3 working days -- prior to the hearing.
 - b. A subpoena requiring the production of records and documents must specifically describe them in detail and further set forth the name and address of the custodian thereof.
 2. The Office of Appeals will prepare all subpoenas. Service of the subpoena will be accomplished by certified mail, receipt requested.
- J. Review of file.** In the presence of a Department representative, the appellant or the appellant's authorized representative, or both, shall be permitted to review, obtain, or copy any Departmental record necessary for the proper presentation of the case.
- K. Conduct of the hearing.**
1. Hearings shall be conducted in an orderly and dignified manner.
 2. Hearings shall be opened, conducted, and closed by the Hearing Officer, who shall rule on the admissibility of evidence and shall direct the order of proof. The Hearing Officer will have the power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of any documents the Hearing Officer deems necessary as evidence in connection with a hearing.
 3. The hearing is a de novo proceeding. The burden is on the client to prove eligibility by a preponderance of evidence. The Department has the initial burden of going forward with presentation of evidence.
 4. Evidence not related to the issue shall not be allowed to become a part of the record.
 5. The Hearing Officer may, on his own motion or at the request of the appellant or Department representative, exclude witnesses from the hearing room.
 6. The worker, supervisor, or other appropriate person may be designated Department representative for the hearing.
 7. The appellant and Department representative may testify, present evidence, and cross-examine witnesses and present arguments.
 8. A full and complete record shall be kept of all proceedings in connection with an appeal. Such records will be open for inspection by the appellant or the appellant's representative at a place accessible to the appellant.

- a. A transcript of the proceedings need not, however, be made unless it is required for further proceedings. When a transcript has been made for further proceedings, a copy will be furnished without cost to each interested party.
 - b. At the close of a hearing, all parties concerned are to vacate the hearing room and are requested to refrain from conferring about the hearing or the case with the Hearing Officer.
- L. Hearing decisions**
1. The hearing decision will be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Departmental rules governing the issues in dispute.
 2. The decision will set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision, and the reasons therefore. A copy of such decision, together with an explanation of the appeal rights, shall be delivered or mailed to each interested party and each party's attorney of record not more than 60 days from the date of filing the request for appeal, unless the delay was caused by the appellant.
 3. Decisions of the Hearing Officer shall bear the signature of that officer.
 4. In those cases where the local office must take additional action as a result of a decision, such action must be taken immediately.
 5. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or to the date the Hearing Officer specifically finds appropriate.
 6. When a hearing decision upholds the proposed action of reducing, suspending, or terminating a grant, any overpayment which results will be treated as a client-caused non-fraud overpayment.
 7. All hearing decisions will be made accessible to the public, subject to all the confidentiality restrictions set forth in A.R.S. § 41-1959.
 8. The decision of the Hearing Officer will be the final decision of the Department, unless a reconsideration is requested in accordance with subsection (N) below.
- M. Withdrawal of appeal.** An appeal may be withdrawn as follows:
1. Voluntary. An appellant may voluntarily withdraw his request for a hearing by completing and signing the proper Department form or by submitting a letter properly signed.
 2. Default. An appellant is considered to have abandoned or involuntarily withdrawn a request for a hearing if the appellant fails to appear at a scheduled hearing and fails to request a rescheduled hearing within 10 days. A hearing will not be considered abandoned if the appellant provides notification up to the time of the hearing that the appellant is unable, due to good cause, to keep the appointment and that the appellant still wishes a hearing, or that the appellant wishes the matter considered on the record.
- N. Appeals Board review.**
1. An appellant may request the Appeals Board to review an adverse hearing decision within 10 calendar days after the decision was mailed or otherwise delivered to the appellant.
 - a. The request for further appeal must be in writing, signed, and dated. It should set forth a statement of the grounds for review and may be filed personally or by mail.
 - b. If the request for further appeal is filed within 10 days of the issuance of the original hearing decision, the local office must continue to withhold the original proposed negative case action until the Appeals Board decision is issued. If the Appeals Board decision is again adverse to the appellant, overpayments which result will be treated as a client-caused non-fraud overpayment.
 2. After receipt of a request the Appeals Board will either:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required or issues, or both, to be considered; or
 - b. Grant the request and decide the appeal on the record.
 3. The Appeals Board will promptly adopt a decision which shall be the final decision of the Department. A copy of the decision, together with a statement specifying the rights for judicial review, will be distributed to each interested party.

Historical Note

R6-13-1208 recodified from A.A.C. R6-13-1208 effective February 13, 1996 (Supp. 96-1).

R6-13-1209. Quality Control

The quality control system shall be operated by the state in accordance with state plan provisions to see that public funds expended within the AFDC program are used properly through locating unacceptable performance and ineffective policies.

1. Purpose. The quality control review system provides an administrative means, which meets federal specifications, to assume that assistance is provided in accordance to state plan provisions, and to hold the incidence of errors below pre-established tolerance limits. This is accomplished by:
 - a. Determining the extent to which those receiving assistance are eligible and that they receive payments in the amount to which they are entitled.
 - b. Reducing or eliminating incidences of eligibility and payment errors by:
 - i. Continuous review of statistically reliable statewide samples of cases,
 - ii. Periodic assembly and analysis of case findings to determine incidences and amount of errors,
 - iii. Application of corrective action to reduce error rates.

Historical Note

R6-13-1209 recodified from A.A.C. R6-3-1209 effective February 13, 1996 (Supp. 96-1).

R6-13-1210. Interagency Inquiry

Any inquiries or communications from other agencies which are received in a local office shall be given a priority as determined by the information requested.

Historical Note

R6-13-1210 recodified from A.A.C. R6-3-1210 effective February 13, 1996 (Supp. 96-1).

R6-13-1211. Quality Assurance

Purpose. The Quality Assurance program (assistance programs bureau monitoring system) will be operated by the state to:

1. Identify the incidences of incorrect assistance payments eligibility determinations due to agency error,
2. Recommend and effect remedial action for correcting programmatic and operational deficiencies,

3. Generate and provide data on assistance payments eligibility error determinations to the administration of the Department for purposes of management control.

Historical Note

R6-13-1211 recodified from A.A.C. R6-3-1211 effective
February 13, 1996 (Supp. 96-1).

R6-13-1212. Assistance to Individuals on Conditional Discharge from the Arizona State Hospital

The following guidelines will be applicable to individuals on conditional discharge from the Arizona State Hospital:

1. Conditional discharge. An individual who is on conditional release from the Arizona State Hospital is not to be considered an inmate of a public institution and may apply for and receive public assistance if all other eligibility requirements are met.
2. State Hospital Social Services responsibility. The hospital Social Services staff will arrange for and place the individual in a living arrangement which in their judgment meets the individual's needs. They will provide all necessary social and medical information to assist the Eligibility Worker in determining eligibility for public assistance.
3. Department of Economic Security responsibility. The Department of Economic Security will accept the application and other material supplied by the hospital Social Worker and will complete the processing of the application. The Department will further extend all available agency services to the recipient.

Historical Note

R6-13-1212 recodified from A.A.C. R6-3-1212 effective
February 13, 1996 (Supp. 96-1).

R6-13-1213. Definition of Indigency for County Medical Care and Hospitalization

A.R.S. § 11-297(A) gives the Arizona Department of Economic Security the responsibility to define indigency for purposes of eligibility for county medical care and hospitalization.

1. All public welfare recipients, and all foster home children whose care is paid for from state or federal funds, are

defined as indigent unless medical care is available from another source.

2. A person or family household, if not welfare recipients, is defined as indigent if it does not have:
 - a. Annual net income in excess of:

\$2,100	--	If single person or married person, living alone.
\$2,800	--	If married person living with spouse.
Plus \$350	--	For each additional dependent member of the household.

 (Net income is gross income from all sources less medical expenses incurred.)
 - b. Resources in excess of the following:
 - i. Household furnishings used by applicant and the applicant's family in the applicant's usual place of residence;
 - ii. Wearing apparel and necessary personal effects;
 - iii. The dwelling house in which such person resides and the land contiguous thereto, not to exceed a fair market value of \$10,000;
 - iv. Livestock used primarily for domestic purposes;
 - v. Tools of trade having a fair market value of \$500;
 - vi. An automobile with a fair market value not exceeding \$750.
 - vii. Other property or assets with the exception of a single or family burial plot having a total fair market value of \$800 for a single recipient or \$1,200 for a recipient and spouse or 2 or more recipients in a single household.
 - c. Means of eligibility for obtaining medical care from any other source.

Historical Note

R6-13-1213 recodified from A.A.C. R6-3-1213 effective
February 13, 1996 (Supp. 96-1).

TITLE 6. ECONOMIC SECURITY**CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY
FOOD STAMPS PROGRAM****ARTICLE 1. FOOD STAMPS -- GENERAL INFORMATION
AND PROVISIONS**

Article 1, consisting of Sections R6-14-101 through R6-14-111 recodified from A.A.C. R6-3-1901 through R6-3-1911 effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-101. Purpose
- R6-14-102. Nondiscrimination
- R6-14-103. Agency Responsibility
- R6-14-104. Information Available to the Public
- R6-14-105. Disclosure of Information
- R6-14-106. Food Coupons
- R6-14-107. Coupon Benefit Level
- R6-14-108. Coupons as Income
- R6-14-109. Issuance of Coupons
- R6-14-110. Return of Coupons
- R6-14-111. Definitions

ARTICLE 2. FOOD STAMPS -- ELIGIBILITY STANDARDS

Article 2, consisting of Sections R6-14-201 through R6-14-218, recodified effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-201. Residency
- R6-14-202. Household Composition
- R6-14-203. Household Composition -- Head of Household
- R6-14-204. Household Composition -- Nonhousehold Members
- R6-14-205. Household Composition -- Residents of Institutions
- R6-14-206. Household Composition -- Student Households
- R6-14-207. Household Composition -- Authorized Representative
- R6-14-208. Citizenship and Alien Status
- R6-14-209. Work Registration Requirement
- R6-14-210. Work Registration Requirement -- Exemptions
- R6-14-211. Work Registration Requirement -- Suitability of Work
- R6-14-212. Work Registration Requirement -- Unlawful Strike
- R6-14-213. Work Registration Requirement -- Failure to Comply
- R6-14-214. Work Registration Requirement -- Student Requirement
- R6-14-215. Work Registration Requirement -- Student Failure to Comply
- R6-14-216. Work Registration Requirement -- End of Disqualification
- R6-14-217. Financial Resources
- R6-14-218. Income Limitations and Deductions

**ARTICLE 3. FOOD STAMPS -- APPLICATION AND
CERTIFICATION**

Article 21, consisting of Sections R6-14-301 through R6-14-320 and R6-14-322 through R6-14-327 recodified from A.A.C. R6-3-2101 through R6-3-2120 and R6-3-2122 through R6-3-2128, recodified effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-301. Initial Application
- R6-14-302. Verification
- R6-14-303. Documentation
- R6-14-304. Delay in Application
- R6-14-305. Eligibility Determination and Benefit Level
- R6-14-306. Resources

- R6-14-307. Resources -- Exclusions
- R6-14-308. Resources -- Transfers
- R6-14-309. Income
- R6-14-310. Income -- Exclusions
- R6-14-311. Income -- Averaging
- R6-14-312. Income -- Anticipated
- R6-14-313. Income -- Self-employment
- R6-14-314. Deductions
- R6-14-315. Net Income Determination
- R6-14-316. Determination of Income and Resources after Disqualification
- R6-14-317. Averaging and Anticipating Expenses
- R6-14-318. Certification Period
- R6-14-319. Identification Card
- R6-14-320. Reporting Changes
- R6-14-321. Reserved
- R6-14-322. Notice of Adverse Action
- R6-14-323. Recertification
- R6-14-324. Public Assistance Households
- R6-14-325. Destitute Households
- R6-14-326. Expedited Service
- R6-14-327. Residents of Rehabilitation Centers

ARTICLE 4. FOOD STAMPS -- ISSUANCE

Article 4, consisting of Sections R6-14-401 and R6-14-402, recodified from A.A.C. R6-3-2201 and R6-3-2203 effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-401. Normal Issuance
- R6-14-402. Transfer of Benefits for Households Who Move

ARTICLE 5. FOOD STAMPS -- HEARINGS AND APPEALS

Article 5, consisting of Sections R6-14-501 through R6-14-507, recodified from A.A.C. R6-3-2301 through R6-3-2307 effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-501. Fair Hearings -- General
- R6-14-502. Fair Hearing Request
- R6-14-503. Notice of Hearing
- R6-14-504. Fair Hearing Procedures
- R6-14-505. Hearing Decisions
- R6-14-506. Fraud Hearings
- R6-14-507. Fraud Hearings -- Appeal

**ARTICLE 6. FOOD STAMPS -- CLAIMS AND
RESTORATION OF LOST BENEFITS**

Article 6, consisting of Sections R6-14-601, R6-14-602, R6-14-604 through R6-14-608, and R6-14-610, recodified from A.A.C. R6-3-2401, R6-3-2402, R6-3-2404 through R6-3-2408, and R6-3-2410 effective February 13, 1996 (Supp. 96-1).

Section

- R6-14-601. Entitlement to Lost Benefits
- R6-14-602. Method of Restoration
- R6-14-603. Reserved
- R6-14-604. Establishing Claims Against Households
- R6-14-605. Non-fraud Claims
- R6-14-606. Non-fraud Claims Collection
- R6-14-607. Fraud Claims
- R6-14-608. Fraud Claims Collection
- R6-14-609. Reserved
- R6-14-610. Claims Collection

ARTICLE 1. FOOD STAMPS -- GENERAL INFORMATION AND PROVISIONS**R6-14-101. Purpose**

The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households.

Historical Note

Section R6-14-101 recodified from A.A.C. R6-3-1901 effective February 13, 1996 (Supp. 96-1).

R6-14-102. Nondiscrimination

The Department of Economic Security will not discriminate against any applicant or participant in the program because of age, race, sex, color, religious creed, national origin, handicap, or political beliefs. The certification of eligible households, issuance of coupons, the conduct of hearings, or any other program service will be administered without discrimination, as prescribed by 7 CFR 272.7.

Historical Note

Section R6-14-102 recodified from A.A.C. R6-3-1902 effective February 13, 1996 (Supp. 96-1).

R6-14-103. Agency Responsibility

The Department of Economic Security is responsible for the administration of the Food Stamp Program in the state of Arizona in consonance with 7 CFR 271.4 and A.R.S. § 41-1954(1)(c).

Historical Note

Section R6-14-103 recodified from A.A.C. R6-3-1903 effective February 13, 1996 (Supp. 96-1).

R6-14-104. Information Available to the Public

Federal regulations, state Plans of Operation, state manuals, and federal procedures which affect the public will be maintained in the state and local offices for examination by members of the public on regular workdays during regular office hours.

Historical Note

Section R6-14-104 recodified from A.A.C. R6-3-1904 effective February 13, 1996 (Supp. 96-1).

R6-14-105. Disclosure of Information

Use or disclosure of information obtained from applicant households will be restricted to persons directly connected with the administration or enforcement of the Food Stamp Act or regulations, or with other federal or federally aided means tested assistance programs, or with general assistance programs. A written consent statement from the applicant/participant is required for disclosure of information to requestors other than specified above.

Historical Note

Section R6-14-105 recodified from A.A.C. R6-3-1905 effective February 13, 1996 (Supp. 96-1).

R6-14-106. Food Coupons

Pursuant to Section 15(d) of the Food Stamp Act, coupons are an obligation of the United States. The provisions of 18 U.S.C., "Crimes and Criminal Procedure", and A.R.S. Title 13, Chapter 37, relative to counterfeiting, misuse, and alteration of obligations of the United States, are applicable to coupons. Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of coupons or ATP's may result in prosecution.

Historical Note

Section R6-14-106 recodified from A.A.C. R6-3-1906 effective February 13, 1996 (Supp. 96-1).

R6-14-107. Coupon Benefit Level

The coupon benefit level will be equal to the Thrifty Food Plan pursuant to 7 CFR 273.10(e)(2)(ii) as amended for the appropriate

household size reduced by 30% of the household's net income. The Thrifty Food Plan will be adjusted semiannually to reflect the cost of food by the U.S. Department of Agriculture.

Historical Note

Section R6-14-107 recodified from A.A.C. R6-3-1907 effective February 13, 1996 (Supp. 96-1).

R6-14-108. Coupons as Income

The food coupon allotment provided any eligible household will not be considered income or resources to that household by any state or federal governmental agency for any purpose, as cited in 7 CFR 272.1(a) and (b).

Historical Note

Section R6-14-108 recodified from A.A.C. R6-3-1908 effective February 13, 1996 (Supp. 96-1).

R6-14-109. Issuance of Coupons

Food coupons will be issued only to households which have been duly certified as eligible to participate in the Food Stamp Program according to R6-14-201 through R6-14-212.

Historical Note

Section R6-14-109 recodified from A.A.C. R6-3-1909 effective February 13, 1996 (Supp. 96-1).

R6-14-110. Return of Coupons

In the event of voluntary termination of participation by a household or the death of the head of the household, properly issued coupons may, but need not, be returned to the Department.

Historical Note

Section R6-14-110 recodified from A.A.C. R6-3-1910 effective February 13, 1996 (Supp. 96-1).

R6-14-111. Definitions

For purposes of this Section, the following terms are defined as follows:

1. "Adjusted net income". Income remaining after all deductions from gross income.
2. "Adverse action". The reduction or termination of program benefits within the certification period.
3. "Alien lawfully admitted to the United States". An alien legally admitted to the United States by the U.S. Immigration and Naturalization Service. An alien legally admitted to the United States may or may not be legally admitted for permanent residence or residing under color of law.
4. "Alien lawfully admitted to the United States for permanent residence". An alien permitted to reside continuously in the United States, as specified by appropriate documentation which the alien must have in the alien's possession at all times.
5. "Allotment". The total value of coupons a household is authorized to receive during each month or any specified time period.
6. "Annualization of income". The division of yearly gross income by 12 to arrive at the monthly average.
7. "Anticipated income". Income which is not yet available to meet needs but which is expected to become available.
8. "Appeal". An individual's written statement requesting a hearing to contest action to be taken or previously taken by the Department.
9. "Applicant". A person who applies for program benefits for the that person and/or others.
10. "Assets". All items owned by an individual which have a monetary value.
11. "A.T.P.". Authorization to Participate in the Food Stamp Program.

Department of Economic Security - Food Stamps Program

12. "Authorized representative". A person authorized by an individual to act in the individual's behalf.
13. "Basis of issuance or benefit level". The amount of coupons for which the household is eligible, based on household size and adjusted net income.
14. "Boarding house". A commercial enterprise which offers meals and lodging for compensation.
15. "Certification". Approval of the household's application and determination of basis of issuance and period of eligibility.
16. "Citizen". An individual born or naturalized in the United States, which is defined, for program purposes, as the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and Swain's Island.
17. "Collateral contact". An individual, agency, or organization contacted to confirm statements presented by the applicant and/or participant.
18. "Color of Law". A legal status which a lawfully admitted alien may claim if the alien can satisfactorily prove that the alien has continuously resided in the United States since June 30, 1948.
19. "Coupon". Any coupon, stamp, or certification provided pursuant to the Food Stamp Act of 1977 for the purchase of eligible food.
20. "Denial". The formal disapproval of an application for program benefits.
21. "Department". The Department of Economic Security.
22. "Drug and/or alcoholic treatment and rehabilitation center". A center providing treatment and rehabilitation programs by a private nonprofit organization.
23. "Earned income". Compensation received as wages, salaries, commissions, or profit, through employment or self-employment.
24. "Eligible food". Any food for human consumption; seeds and plants to grow foods for the personal consumption of the eligible household; delivered meals and meals served at approved communal dining facilities and rehabilitation treatment centers.
25. "Eligibility worker". Department employee responsible for the determination of eligibility of the applicant households.
26. "Equity value". The fair market value less encumbrances.
27. "F.N.S.". Food and Nutrition Service, a division of the United States Department of Agriculture.
28. "Fraud". An action, punishable by law, in which a person has knowingly, willfully, and with deceitful intent obtained benefits for which the person was not eligible.
29. "Hearing". The process of reviewing a client's situation for the purpose of deciding whether or not action taken or intended action by the Department is correct.
30. "Home visit". A visit by an Eligibility Worker to the client's place of residence to verify eligibility factors for program benefits.
31. "Home and land contiguous thereto". The residential real property owned by a client, both land improvements on which client is living, as well as any land immediately touching which is also owned by the client.
32. "Identification card". A card which identifies the bearer as eligible to receive and use food coupons.
33. "In kind". Any gain or benefit which is not in the form of money payable directly to the household, such as meals, clothing, public housing, produce from a garden, and vendor payments.
34. "Institution of higher education". Any institution providing post-high-school education, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high-school level.
35. "Liquid resources". Financial instruments which can be converted to cash quickly (such as stocks, bonds, savings certificates, notes, sales contracts, etc.).
36. "Minor child". A person under age 18 and under parental control.
37. "Non-eligible food". Hot foods and hot food products prepared for immediate over-the-counter service, alcoholic beverages, tobacco, pet foods and supplies, soap, and paper products.
38. "Overissuance". The amount of a coupon allotment received by a household which is in excess of what it was eligible to receive.
39. "Parental control". A child under the age of 18 years and under the control of the parent or any adult other than natural parents (in loco parentis).
40. "Project area". The county or geographic entity designated as the administrative unit for program operations.
41. "Recertification". A re-evaluation of all eligibility factors.
42. "Restoration of lost benefits". Issuance of coupons to an eligible household that did not receive benefits or the correct amount of benefits due to an error caused by the Department.
43. "Retroactive benefits". An issuance of coupons to an eligible household who experienced a delay in the processing of the application.
44. "Roomer". Individual to whom lodging is furnished for compensation.
45. "Spouse". One of 2 individuals who are married to each other under applicable state law or who are living together and holding themselves out to the community as husband and wife.
46. "Student". An individual 18 years of age or older and attending, at least half time, a post-high-school institution of higher education (as defined for program purposes).
47. "United States citizen". A person who was born in the United States or naturalized in the United States and has maintained United States citizenship status.
48. "U.S.D.A.". United States Department of Agriculture.
49. "Vendor payments". Money payments made on behalf of the household to another by a 3rd party.

Historical Note

Section R6-14-111 recodified from A.A.C. R6-3-1911 effective February 13, 1996 (Supp. 96-1).

ARTICLE 2. FOOD STAMPS -- ELIGIBILITY STANDARDS**R6-14-201. Residency**

A household must live in the county in which it files an application for participation, as provided in 7 CFR 273.3.

Historical Note

R6-14-201 recodified from A.A.C. R6-3-2001 effective February 13, 1996 (Supp. 96-1).

R6-14-202. Household Composition

- A.** A household may be defined as an individual living alone, or a group of individuals living together but not residents of an institution, except:
1. Residents of a federally subsidized institution for the elderly, built under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.
 2. Drug addicts and alcoholics who reside at a drug or alcoholic treatment and rehabilitation facility which is authorized to accept food coupons.

- B.** Separate household status will not be granted to a spouse of the individual or to children under 18 years of age who are under parental control of the household member, as defined in R6-14-111.

Historical Note

R6-14-202 recodified from A.A.C. R6-3-2002 effective February 13, 1996 (Supp. 96-1).

R6-14-203. Household Composition -- Head of Household

The head of the household is determined by the applicant or the designee of the applicant.

Historical Note

R6-14-203 recodified from A.A.C. R6-3-2003 effective February 13, 1996 (Supp. 96-1).

R6-14-204. Household Composition -- Nonhousehold Members

- A.** The following household residents will not be considered household members in determining the eligibility or allotment level of the household:
1. Ineligible aliens as defined in R6-14-208,
 2. Roomers,
 3. Boarders,
 4. Live-in attendants,
 5. Student tax dependents,
 6. Individuals disqualified for fraud or students disqualified for failure to fulfill the work registration requirements,
 7. Individuals who share living quarters with the eligible household, but do not purchase food or prepare meals with the household.
- B.** Nonhousehold members who are otherwise eligible may participate as separate households.

Historical Note

R6-14-204 recodified from A.A.C. R6-3-2004 effective February 13, 1996 (Supp. 96-1).

R6-14-205. Household Composition -- Residents of Institutions

Refer to R6-14-111, Definitions.

Historical Note

R6-14-205 recodified from A.A.C. R6-3-2005 effective February 13, 1996 (Supp. 96-1).

R6-14-206. Household Composition -- Student Households

A student who is a member of a household and is otherwise eligible to participate in the program will not be eligible to participate as a member of that or any other household if the student:

1. Has reached age 18, and
2. Is enrolled at least half time in an institution of higher education, and
3. Is properly claimed or could be properly claimed for the current tax year as a dependent child for federal income tax purposes by a taxpayer who is not a member of an eligible household.

Historical Note

R6-14-206 recodified from A.A.C. R6-3-2006 effective February 13, 1996 (Supp. 96-1).

R6-14-207. Household Composition -- Authorized Representative

The head of the household, or any other responsible member of the household, may at any time designate any adult to act as an authorized representative on behalf of the household.

Historical Note

R6-14-207 recodified from A.A.C. R6-3-2007 effective February 13, 1996 (Supp. 96-1).

R6-14-208. Citizenship and Alien Status

- A.** Program participation will be available only to a person who is a resident of the United States and 1 of the following:
1. A United States citizen;
 2. An alien lawfully admitted for permanent residence as an immigrant pursuant to the Immigration and Nationality Act;
 3. An alien who entered the United States under color of law prior to June 30, 1948, and has continuously maintained residency in the United States;
 4. An alien who qualified for conditional entry because of persecution or fear or persecution because of race, religion, political opinion, or because of catastrophic natural calamity pursuant to the Immigration and Nationality Act;
 5. An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General pursuant to the Immigration and Nationality Act;
 6. An alien living within the United States to whom the Attorney General has withheld deportation pursuant to the Immigration and Nationality Act.
- B.** Alien status must be verified.

Historical Note

R6-14-208 recodified from A.A.C. R6-3-2008 effective February 13, 1996 (Supp. 96-1).

R6-14-209. Work Registration Requirement

Each household member who is between 18 and 60 years of age, and is not exempt, must register for employment with the Department Job Service, except as provided in R6-14-210.

1. Registration is completed at the time of application for the Food Stamp Program and must be updated every 6 months thereafter.
2. Households whose primary wage earner has voluntarily quit the person's most recent job without good cause will not be eligible for program participation.

Historical Note

R6-14-209 recodified from A.A.C. R6-3-2009 effective February 13, 1996 (Supp. 96-1).

R6-14-210. Work Registration Requirement -- Exemptions

The following persons are exempt from the work registration requirement:

1. Employed individuals who are:
 - a. Working a minimum of 30 hours per week, or
 - b. Receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours;
2. A household member currently participating in the Work Incentive Program (WIN) under Title IV of the Social Security Act;
3. A parent or other household member responsible for the care of a dependent child under 12 years of age or an incapacitated person;
4. A parent or caretaker of a child under 18 years of age when another able-bodied parent is registered for work or is exempt as a result of employment;
5. An individual receiving or who has applied for unemployment compensation;
6. A regular participant in a drug or alcoholic treatment and rehabilitation program;
7. Persons who are physically or mentally incapable of engaging in gainful employment;

8. An exempt student;
9. A self-employed household member who:
 - a. Devotes a minimum of 30 hours per week to the self-employment enterprise, or
 - b. Has weekly earnings equal to the federal minimum wage multiplied by 30 hours.

Historical Note

R6-14-210 recodified from A.A.C. R6-3-2010 effective February 13, 1996 (Supp. 96-1).

R6-14-211. Work Registration Requirement -- Suitability of Work

- A. Employment will be considered unsuitable when:
 1. The wage offered is less than the highest of:
 - a. The applicable federal minimum wage, or
 - b. The applicable state minimum wage, or
 - c. 80% of the federal minimum wage if neither the federal nor state minimum wage is applicable;
 2. The employment offered is on a piece-rate basis, and the average hourly yield which the employee can reasonably be expected to earn is less than the applicable hourly wage as specified in subsection (A)(1);
 3. The applicant is required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
 4. The work offered is at a site subject to strike or lockout, unless the strike has been enjoined under the Taft-Hartley Act, Section 208 of the Labor Management Relations Act (29 U.S.C. 160).
- B. Employment opportunities will be considered suitable unless the household member can demonstrate or it can otherwise be determined:
 1. The degree of risk to health and safety is unreasonable;
 2. The individual is physically or mentally incapable of performing the assigned tasks of employment as documented by medical evidence or reliable information obtained from other sources;
 3. The employment offered within the first 30 days of registration is not in the household member's field of experience;
 4. The distance of employment from the household member's place of residence is unreasonable, with respect to the expected wage and the time and cost of commuting.
 - a. Commuting time cannot exceed 2 hours per day, not including time to transport a child to and from a child care facility;
 - b. Employment is not considered suitable if the distance prohibits walking and neither public or private transportation is available;
 5. The working hours or type of employment will interfere with the individual's religious observances, convictions, or beliefs;
 6. For students, the employment offered is during scheduled class hours or is more than 20 hours per week.

Historical Note

R6-14-211 recodified from A.A.C. R6-3-2011 effective February 13, 1996 (Supp. 96-1).

R6-14-212. Work Registration Requirement -- Unlawful Strike

In any strike which has been enjoined under the Taft-Hartley Act, Section 208 of the Labor Management Relations Act (29 U.S.C. 178), or is subject to an injunction which has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160), all households containing 1 or more members involved in the strike and affected by the enjoinder will be denied benefits or will have ben-

efits terminated, unless the household can demonstrate that the members involved are not required to register for work.

Historical Note

R6-14-212 recodified from A.A.C. R6-3-2012 effective February 13, 1996 (Supp. 96-1).

R6-14-213. Work Registration Requirement -- Failure to Comply

A household member, other than a student, who has refused or failed without good cause to comply with the work registration requirements will cause the household to become ineligible for program benefits until the member complies with the requirements or becomes exempt from the work registration requirement, or 2 months from the date of noncompliance has passed.

Historical Note

R6-14-213 recodified from A.A.C. R6-3-2013 effective February 13, 1996 (Supp. 96-1).

R6-14-214. Work Registration Requirement -- Student Requirement

A student who is enrolled at least half time (in accordance with the institution's attendance policies) in a recognized school, training program, or institution of higher education is exempt from work registration requirements except:

1. Students must register for full employment during periods of school vacation or recess which exceed 30 days.
2. During the regular school term, students enrolled in an institution of higher education must register for 20 hours of work per week.

Historical Note

R6-14-214 recodified from A.A.C. R6-3-2014 effective February 13, 1996 (Supp. 96-1).

R6-14-215. Work Registration Requirement -- Student Failure to Comply

A student who refuses or fails to comply with the work registration requirement will be ineligible to participate as a member of any household. The disqualification applies to the individual student and not the entire household.

Historical Note

R6-14-215 recodified from A.A.C. R6-3-2015 effective February 13, 1996 (Supp. 96-1).

R6-14-216. Work Registration Requirement -- End of Disqualification

Following the end of the 2-month disqualification period, a household member or student may reapply.

Historical Note

R6-14-216 recodified from A.A.C. R6-3-2016 effective February 13, 1996 (Supp. 96-1).

R6-14-217. Financial Resources

The uniform national resource standards of eligibility apply to all households. Assets of the household will not exceed \$1,750 for the entire household, except for households of 2 or more which include at least 1 member over 60 years of age the assets will not exceed \$3,000.

Historical Note

R6-14-217 recodified from A.A.C. R6-3-2017 effective February 13, 1996 (Supp. 96-1).

R6-14-218. Income Limitations and Deductions

The income of all applicants will be considered according to R6-14-309.

Historical Note

R6-14-218 recodified from A.A.C. R6-3-2018 effective February 13, 1996 (Supp. 96-1).

ARTICLE 21. FOOD STAMPS -- APPLICATION AND CERTIFICATION**R6-14-301. Initial Application**

Admission to the Food Stamp Program, eligibility for the program, and determination of benefits to be received are based on a signed, written application, filed with a certification office of the Department.

Historical Note

R6-14-301 recodified from A.A.C. R6-3-2101 effective February 13, 1996 (Supp. 96-1).

R6-14-302. Verification

- A.** The following eligibility criteria must be verified:
1. Gross non-exempt income,
 2. Alien status.
- B.** The following eligibility criteria may be verified if inconsistent with other information:
1. Resource information;
 2. Non-financial information;
 3. Citizenship;
 4. Deductible expenses if the claimed expense would result in a deduction, and when:
 - a. The household wishes to claim utility expenses in excess of the standard utility expense,
 - b. Shelter costs exceed the standard,
 - c. Expenses claimed are inconsistent with other household circumstances.

Historical Note

R6-14-302 recodified from A.A.C. R6-3-2102 effective February 13, 1996 (Supp. 96-1).

R6-14-303. Documentation

Case files requiring verification must be documented indicating verification methods.

Historical Note

R6-14-303 recodified from A.A.C. R6-3-2103 effective February 13, 1996 (Supp. 96-1).

R6-14-304. Delay in Application

- A.** Delays caused by the household. When no further action can be taken on an application because the household has failed to complete the application process and the Department has met its responsibility to assist the household, a notice of denial will be issued on the 30th day following the date of application.
- B.** Delays caused by the Department. When the Department fails to complete the application process within 30 days after the date of application, the household will be notified on the 30th day and, if subsequently found eligible, benefits will be issued retroactively to the period of application.

Historical Note

R6-14-304 recodified from A.A.C. R6-3-2104 effective February 13, 1996 (Supp. 96-1).

R6-14-305. Eligibility Determination and Benefit Level

- A.** The period of eligibility for Food Stamp Program benefits will be based on the calendar month. The household's net monthly income will be compared to the monthly eligibility standards for the appropriate household size to determine eligibility for the month.
- B.** A single application may be utilized for multiple-month certifications, based on household circumstances.

Historical Note

R6-14-305 recodified from A.A.C. R6-3-2105 effective February 13, 1996 (Supp. 96-1).

R6-14-306. Resources

Only those resources (liquid and non-liquid assets) available at the time of application will be used to determine eligibility for benefits according to R6-14-217.

Historical Note

R6-14-306 recodified from A.A.C. R6-3-2106 effective February 13, 1996 (Supp. 96-1).

R6-14-307. Resources -- Exclusions

- A.** In determining the resources of a household, only the following are excluded:
1. The home in which it resides and the contiguous property;
 2. Household goods and personal effects;
 3. The entire value of any licensed vehicle which is used primarily (over 50% of the time the vehicle is used) for income-producing purposes;
 4. The value of 1 licensed vehicle, other than vehicles excluded above, which is less than the fair market value of \$4,500, and the value of each additional licensed vehicle with fair market value of less than \$4,500 which is necessary for household members to seek employment or to transport household members to and from employment. For the purpose of this regulation, fair market value means gross value as determined by the Kelly Blue Book wholesale value;
 5. Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis;
 6. Property which is essential to the employment or self-employment of a household member;
 7. Governmental payments which are designated for the restoration of a home damaged in a disaster under certain conditions;
 8. Resources whose cash value is not accessible to the household;
 9. Resources of nonhousehold members, except those who have been disqualified;
 10. Resources of students or self-employed persons which have been prorated as income;
 11. Indian lands held jointly with the tribe or land that can be sold only with approval of the BIA;
 12. Resources which are excluded for program purposes by express provision of federal law;
 13. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.
- B.** Excluded funds which are maintained in a separate account will retain the resource exclusion for an unlimited period of time.
- C.** Excluded funds which are combined in an account with non-excluded funds will retain the exemption for the period of 6 months from the date of the combination.

Historical Note

R6-14-307 recodified from A.A.C. R6-3-2107 effective February 13, 1996 (Supp. 96-1).

R6-14-308. Resources -- Transfers

Households who knowingly transfer resources for the purpose of qualifying for program benefits will be disqualified for up to 1 year from the date of discovery. The following table will be used to determine the period of disqualification:

Department of Economic Security - Food Stamps Program

<u>Amount in excess of the resource limit --</u>	<u>Period of disqualification</u>
\$0 - 249	1 Month
250 - 999	3 Months
1,000 - 2,999	6 Months
3,000 - 4,999	9 Months
5,000 - Up	12 Months

Historical Note

R6-14-308 recodified from A.A.C. R6-3-2108 effective
February 13, 1996 (Supp. 96-1).

R6-14-309. Income

- A. Income eligibility will be based on income received during the certification period and income anticipated to be received during the certification period.
- B. Household income will include income from all sources, excluding those sources of income defined in R6-14-310.

Historical Note

R6-14-309 recodified from A.A.C. R6-3-2109 effective
February 13, 1996 (Supp. 96-1).

R6-14-310. Income -- Exclusions

- A. Income exclusions include only the following:
- Any gain or benefit which is not in the form of money payable directly to the household, including in-kind income and vendor payments. See R6-14-111, Definitions;
 - Income received during the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in 1 quarter;
 - Educational loans for which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used only for tuition and mandatory fees at an institution of higher education, including correspondence school at that level, or a school for the physically or mentally handicapped;
 - All deferred payment loans, other than educational loans;
 - Reimbursement for past or future expenses, including:
 - Reimbursement or allowance for job- or training-related expenses;
 - Out-of-pocket expenses of volunteers incurred in the course of their volunteer activities;
 - Medical or dependent care reimbursement;
 - Reimbursement or allowance to students for specific educational expenses, not including living expenses;
 - Reimbursement received by the household to pay for services provided by Title XX of the Social Security Act;
 - Monies received and used for the care and maintenance of a 3rd-party beneficiary who is not a household member;
 - The earned income of children who are members of the household, have not attained their 18th birthday, and are at least half-time students;
 - Payments received in the form of non-recurring lump-sum payments;
 - The cost of producing self-employment income;
 - Income that is specifically excluded by any law from consideration as income for the purpose of determining Food Stamp Program eligibility.
 - Reimbursement from the Uniform Relocation Assistance and Real Property Policy Act of 1970 (P.L. 91-646);
 - Payments received under the Alaska Native Claim Settlement (P.L. 92-203);

- Income derived from certain land of the United States which is held in trust for certain Indian tribes (P.L. 94-114);
- Payments from programs administered by the Community Services Administration (CSA);
- Payments received from:
 - The Youth Incentive Entitlement Pilot Project,
 - The Youth Community Conservation and Improvement Projects,
 - The youth employment and training programs under the Youth Employment and Demonstration Project Act of 1977 (P.L. 95-93)

- Payments to volunteers under Title II (RSVP, Foster Grandparents, etc.) and Title III (SCORE and ACE) of the Domestic Volunteer Service Act of 1973 (P.L. 93-113) as amended;

- Payments received under Title I (VISTA) will be excluded only for those individuals receiving Food Stamp benefits or public assistance at the time they enlisted in the VISTA program,
- Temporary interruptions in Food Stamp participation will not alter the exclusion after an initial determination has been made.

- B. For households which contain a nonhousehold member other than those disqualified, the income and resources of the non-household member will not be counted in determining eligibility and benefit levels.

- If the nonhousehold member shares deductible expenses, only that portion paid or contributed by the household will be allowed as a deduction.
- If the payments or contributions cannot be identified, the expense will be prorated evenly among persons actually paying or contributing to the expense, and only the household's prorated share deducted.
- Cash payments from the nonhousehold member to the household will be considered income under normal income standards.

Historical Note

R6-14-310 recodified from A.A.C. R6-3-2110 effective
February 13, 1996 (Supp. 96-1).

R6-14-311. Income -- Averaging

Households, except PA households who are subject to monthly reporting requirements, may elect to have income averaged over the certification period. Households which by contract or self-employment derive their annual income in a period to time shorter than 1 year will have their income averaged over a 12-month period, provided that income from the contract is not received on an hourly or piecework basis.

Historical Note

R6-14-311 recodified from A.A.C. R6-3-2111 effective
February 13, 1996 (Supp. 96-1).

R6-14-312. Income -- Anticipated

Anticipated income will be based on the income the household can be reasonably certain will be received during the certification period.

Historical Note

R6-14-312 recodified from A.A.C. R6-3-2112 effective
February 13, 1996 (Supp. 96-1).

R6-14-313. Income -- Self-employment

Household income which is derived from self-employment will be determined as follows:

1. Annualization of self-employment income prorated over a 12-month period, even if the income is received in a shorter period of time;
2. Capital gains from the sale of capital goods or equipment will be calculated in the same manner as capital gains for federal income tax purposes. The full amount of the capital gain is counted as income for Food Stamp purposes, even if only 50% of the proceeds are taxed.

Historical Note

R6-14-313 recodified from A.A.C. R6-3-2113 effective February 13, 1996 (Supp. 96-1).

R6-14-314. Deductions

The only allowable deductions from income are:

1. Standard deduction established by the Department of Agriculture, prescribed by 7 CFR 273.9(d) and subject to semi-annual adjustment;
2. Earned income deduction as provided by 7 CFR 273.9;
3. Dependent care costs not to exceed the maximum limit as prescribed by 7 CFR 273.9;
4. Utility cost. The standard utility deduction may be considered or the household may elect to use actual verified expenses;
5. Shelter cost. Monthly shelter costs in excess of 50% of the household's net monthly income alone will be considered a deduction provided this amount, when combined with the dependent care cost, does not exceed the standard prescribed by the U.S. Department of Agriculture and prescribed by 7 CFR 273.9.

Historical Note

R6-14-314 recodified from A.A.C. R6-3-2114 effective February 13, 1996 (Supp. 96-1).

R6-14-315. Net Income Determination

Net income determination is calculated as follows: The total of 80% of the earned income, plus all of the unearned income, minus allowable deductions (R6-14-314).

Historical Note

R6-14-315 recodified from A.A.C. R6-3-2115 effective February 13, 1996 (Supp. 96-1).

R6-14-316. Determination of Income and Resources after Disqualification

As follows:

1. Resources of the disqualified household member will be counted for the remaining household members,
2. A prorated share of the income of the disqualified member will be counted for the remaining household members,
3. Deductible expenses are counted for the remaining household members,
4. That portion of the disqualified household member's shelter and dependent care costs is not deducted.

Historical Note

R6-14-316 recodified from A.A.C. R6-3-2116 effective February 13, 1996 (Supp. 96-1).

R6-14-317. Averaging and Anticipating Expenses

Expenses may be anticipated or averaged or both over the certification period utilizing the most recent bills.

Historical Note

R6-14-317 recodified from A.A.C. R6-3-2117 effective February 13, 1996 (Supp. 96-1).

R6-14-318. Certification Period

Certification periods conform to calendar months beginning with the month of application.

1. Public assistance households are assigned certification periods to coincide with the public assistance review date,
2. All other households will be assigned the longest certification period possible based on stability and predictability of household circumstances, from 1 to 12 months.

Historical Note

R6-14-318 recodified from A.A.C. R6-3-2118 effective February 13, 1996 (Supp. 96-1).

R6-14-319. Identification Card

Identification (ID) cards will be issued to each certified household as proof of program eligibility.

Historical Note

R6-14-319 recodified from A.A.C. R6-3-2119 effective February 13, 1996 (Supp. 96-1).

R6-14-320. Reporting Changes

Changes in household circumstances must be reported within ten calendar days of the change. Failure to report a change which results in an overissuance of benefits will require a claim determination in accordance with R6-14-602.

Historical Note

R6-14-320 recodified from A.A.C. R6-3-2120 effective February 13, 1996 (Supp. 96-1).

R6-14-321. Reserved**R6-14-322. Notice of Adverse Action**

Prior to any action to reduce or terminate a household's program benefits within the certification period, the household will be provided advance notice, which must be mailed at least 10 days prior to the date the action becomes effective.

Historical Note

R6-14-322 recodified from A.A.C. R6-3-2122 effective February 13, 1996 (Supp. 96-1).

R6-14-323. Recertification

Currently certified households will receive notification not earlier than 15 days prior to, nor later than, the 1st day of the last month of certification to insure timely reapplication.

Historical Note

R6-14-323 recodified from A.A.C. R6-3-2123 effective February 13, 1996 (Supp. 96-1).

R6-14-324. Public Assistance Households

Households in which all members are applying for public assistance will be allowed to apply for Food Stamp benefits at the same time and with the same interviewer.

Historical Note

R6-14-324 recodified from A.A.C. R6-3-2124 effective February 13, 1996 (Supp. 96-1).

R6-14-325. Destitute Households

Destitute households are entitled to expedited services. A destitute household is 1 which meets 1 of the following criteria:

1. Households whose only source of income for the month of application was received prior to the date of application and was from a terminated source, or
2. Households whose only income for the month of application is from a new source and any income of more than \$25 which will not be received by the 10th calendar day after the date of application, or

3. Households that meet both of the aforementioned criteria.

Historical Note

R6-14-325 recodified from A.A.C. R6-3-2125 effective
February 13, 1996 (Supp. 96-1).

R6-14-326. Expedited Service

Destitute households and households who have 0 net monthly income will be eligible for expedited service.

1. The ATP or coupons will be mailed within 2 work days, or the ATP or coupons will be available for pickup by the 3rd working day following application.
2. The ATP or coupons will be mailed or available for pickup by residents of rehabilitation centers by the 7th working day following application.

Historical Note

R6-14-326 recodified from A.A.C. R6-3-2126 effective
February 13, 1996 (Supp. 96-1).

R6-14-327. Residents of Rehabilitation Centers

Residents of drug/alcohol rehabilitation centers may voluntarily elect to participate in the program. Residents will be certified under the same requirements and standards as other households, except the certification must be accomplished through an authorized representative.

Historical Note

R6-14-327 recodified from A.A.C. R6-3-2127 effective
February 13, 1996 (Supp. 96-1).

ARTICLE 4. FOOD STAMPS -- ISSUANCE

R6-14-401. Normal Issuance

- A. The certified households will be issued an Authorization to Participate (ATP).
- B. A replacement ATP will be issued following a 5-day waiting period only with the original ATP is lost, destroyed, or stolen during the period for which it was intended.

Historical Note

R6-14-401 recodified from A.A.C. R6-3-2201 effective
February 13, 1996 (Supp. 96-1).

R6-14-402. Transfer of Benefits for Households Who Move

Continuation of certification of a household moving from the county will be provided for 60 days. The household must report to the Department prior to its departure from the county.

Historical Note

R6-14-402 recodified from A.A.C. R6-3-2203 effective
February 13, 1996 (Supp. 96-1).

ARTICLE 5. FOOD STAMPS -- HEARINGS AND APPEALS

R6-14-501. Fair Hearings -- General

Any household who disagrees with, or feels aggrieved by, any action or inaction which affects the participation of the household in the program has the right to a fair hearing.

1. The household will be allowed to request a hearing on any such action which has occurred in the prior 90 days. The household may request a fair hearing any time within the certification period to dispute its current level of benefits.
2. At the time of application, and at the time of any adverse action, the household must be informed in writing of its right to request a hearing, the method by which a hearing may be requested, and that its case may be presented by a household member or representative, relative, or other spokesperson. If there is an individual or organization available that provides free legal representation, the household will be so informed. A household will also be

informed of its fair hearing rights any time it expresses disagreement with any agency action.

3. An agency conference will be scheduled at the time the request for hearing is submitted by the household to provide an opportunity to resolve the dispute prior to the hearing. The agency conference is optional to the household and will not delay or replace the fair hearing process. An agency conference for households contesting a denial of expedited service shall be scheduled within 2 working days, unless the household requests that it be scheduled later or states that it does not wish to have the conference.

Historical Note

R6-14-501 recodified from A.A.C. R6-3-2301 effective
February 13, 1996 (Supp. 96-1).

R6-14-502. Fair Hearing Request

- A. When a household requests a fair hearing within the 10 days provided by the notice of adverse action, and when its certification period has not expired, the household's benefits will be continued on the same basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits.
 1. Benefits will be reduced or terminated if the household fails to request a hearing.
 2. When benefits are reduced or terminated due to a mass change, participation on the prior basis will be reinstated only if the issue being contested is that Food Stamp eligibility or benefits were improperly computed or that federal directives were misinterpreted or misapplied.
 3. Benefits which are continued or reinstated will not be reduced or terminated prior to the receipt of the official hearing decision unless:
 - a. The certification period expires and the household reapplies and is determined eligible for a new certification period with a benefit amount as determined for the new certification period; or
 - b. The hearing officer makes a preliminary determination, in writing and at the hearing, that the sole issue is 1 of federal law, regulation, or policy, and the household's claim that the state agency improperly computed the benefits or misinterpreted or misapplied said law, regulation, or policy is invalid; or
 - c. A change affecting the household's eligibility or level of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action;
 - d. A mass change affecting the household's eligibility or level of issuance occurs while the hearing decision is pending.
 4. A request for a hearing is any clear expression, oral or written, by a member of the household or its representative that it wishes to appeal an adverse decision. The freedom to make such a request must not be limited or interfered with in any way.
 - a. A request for a hearing will not be denied or dismissed unless the request is withdrawn in writing by the household or its representative.
 - b. Good cause. The submission of any request for a fair hearing not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

- B. Individual requests for hearing may be combined into a single group hearing when related issues of state or federal law, regulation, or policy are being addressed and individual issues of fact are not disputed.
- C. A fair hearing and an administrative fraud hearing may be combined into a single hearing when the factual issues arise out of the same or related circumstances and the household receives notice the hearings will be combined, not less than 30 days prior to the hearing.
- D. Hearing requests will be expedited for households such as migrant farm workers who plan to move from the state, and the hearing will be scheduled and a decision rendered before the anticipated move.

Historical Note

R6-14-502 recodified from A.A.C. R6-3-2302 effective February 13, 1996 (Supp. 96-1).

R6-14-503. Notice of Hearing

- A. Advance written notice of the hearing will be provided to all parties involved at least 10 days prior to the hearing to permit adequate preparation of the case. The notice will include:
 - 1. The time, date, and place of the hearing;
 - 2. The name, address, and telephone number of the person to notify in the event it is not possible for the household or its representative to attend the scheduled hearing;
 - 3. Information that the hearing request will be dismissed if the household or its representative fails to appear for the hearing without good cause;
 - 4. The hearing procedures and any other information which would provide the household or its representative with an understanding of the proceedings and contribute to the effective presentation of the household's case.
 - 5. An explanation that the household or its representative may examine the case file prior to the hearing.
- B. Timely action on hearings. Within 60 days of receipt of a request for a hearing, the hearing will be held, a decision rendered, and notification sent to the household and local office.
 - 1. The household may request and is entitled to receive a postponement of the hearing for a period of up to 30 days.
 - 2. The time limit for action on the decision will be extended for as many days as the hearing is postponed.

Historical Note

R6-14-503 recodified from A.A.C. R6-3-2303 effective February 13, 1996 (Supp. 96-1).

R6-14-504. Fair Hearing Procedures

- A. Hearings will be conducted by an impartial official who does not have any personal involvement in the case and who was not directly involved in the initial determination of the action which is being contested.
 - 1. The hearing official will be a state-level employee designated to conduct hearings and will:
 - a. Regulate and conduct the course of the hearing consistent with due process to insure an orderly hearing;
 - b. Insure all relevant issues are considered, and evidence not related to the issue is not allowed to become a part of the record;
 - c. Administer oaths or affirmations;
 - d. Request, receive, and make a part of the record all evidence determined necessary to decide the issues being raised;
 - e. Order, when relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the agency;
 - f. Render all hearing decisions.

- 2. The hearing officer may subpoena any witnesses or documents requested by the Department or appellant to be present at the hearing.
 - a. The request for the subpoena shall be in writing and must state the name and address of the witness and the nature of witness' testimony.
 - i. The hearing officer may deny the request if the witness' testimony is not relevant to the issues of the hearing.
 - ii. The request for the issuance of a subpoena shall be submitted a minimum of 3 working days prior to the hearing.
 - iii. A subpoena requiring the production of records and documents must specifically describe them in detail and further set forth the name and address of the custodian thereof.
 - b. The hearing office will prepare all subpoenas. Service of the subpoena will be accomplished by certified mail, return receipt requested.
- 3. The hearing officer may take such action for the proper disposition of an appeal as the hearing officer deems necessary and, on the hearing officer's own motion or at the request of any interested party upon a showing of good cause, may disqualify himself or herself, or may continue the hearing to a future time, or reopen a hearing before a decision is final to take additional evidence.
- 4. If an interested party fails to appear at a scheduled hearing without good cause, the hearing official may reschedule the hearing to a later date, or may deny or dismiss the request for hearing. If within 10 days of the scheduled hearing the appellant files a request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing will be rescheduled. Notice of the time, place, and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.

- B. Hearing rights. The household or its representative must be given adequate opportunity to examine all documents and records to be used during the course of the hearing at a reasonable time before the date of the hearing, as well as during the hearing, and:
 - 1. Receive a copy, without charge, of relevant portions of the case file if requested;
 - 2. Present the case or have it presented by legal counsel or other persons;
 - 3. Present witnesses;
 - 4. Advance arguments without undue influence;
 - 5. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses;
 - 6. Submit evidence to establish all pertinent facts and circumstances in the case.
- C. The hearing shall be attended by the household or its representative or both. Other persons may attend at the request of the household.
- D. The local office shall provide a representative to present its case at the hearing. This representative has the same rights as the claimant to examine documents, bring witnesses, advance arguments, question evidence, and submit evidence.

Historical Note

R6-14-504 recodified from A.A.C. R6-3-2304 effective February 13, 1996 (Supp. 96-1).

R6-14-505. Hearing Decisions

- A. Decisions rendered by the hearing officer will:
 - 1. Comply with federal law, regulations, or policy;

2. Be binding on the agency;
 3. Be based solely on the hearing record;
 4. Summarize the facts of the case;
 5. Specify the reasons for the decision;
 6. Identify the supporting evidence and pertinent regulations or policy;
 7. Become a part of the record, which will be available for public inspection and copying, subject to disclosure safe guards.
- B.** The household and the appropriate local office will be notified in writing of:
1. The decision,
 2. The availability of appeal rights,
 3. The effect of the hearing decision with respect to the household's benefit level.
- C.** When the hearing officer renders a decision which declares that a household has been improperly denied benefits or has been issued a lesser allotment than was due, lost benefits will be restored to the household. When the hearing official upholds the agency's action, a claim against the household for any overissuance shall be prepared in accordance with R6-14-604.
- D.** The household may request a Director's review of an adverse hearing decision within 10 calendar days after the decision was mailed or otherwise delivered.
1. The request for reconsideration must be in writing. It should set forth a statement of the grounds for review and may be filed personally or by mail.
 2. Upon timely filing of such a request, the local office must continue to withhold the original proposed case action until the reconsidered decision is issued.
 3. After receipt of a request, the Director will:
 - a. Remand the case for rehearing, specifying the nature of any additional evidence required or issues to be considered, or both; or
 - b. Decide the appeal on the record.
 4. The Director will promptly adopt a decision, which shall be the final decision of the Department.
 5. A copy of the decision will be distributed to each interested party.
- Historical Note**
- R6-14-505 recodified from A.A.C. R6-3-2305 effective February 13, 1996 (Supp. 96-1).
- R6-14-506. Fraud Hearings**
- A.** Fraud is any action by an individual who knowingly, willfully, and with deceitful intent:
1. Makes a false statement, either orally or in writing, to obtain benefits to which the household is not entitled;
 2. Conceals information to obtain benefits to which the household is not entitled;
 3. Alters ATP's to obtain benefits to which the household is not entitled;
 4. Uses coupons to purchase non-food items;
 5. Uses or possesses improperly obtained coupons or ATP's;
 6. Trades or sells coupons or ATP's.
- B.** An administrative fraud hearing or a referral for prosecution will be initiated when the Department has documented evidence to substantiate that a currently certified household member has committed fraud and should be disqualified.
1. The Office of Special Investigation will investigate all reports indicating potential fraudulent activity by a household member.
 2. If the household member who is suspected of fraud is not currently certified when the suspected fraud is discovered, the procedures will be initiated when the household member again becomes certified.
3. Fraud hearings shall not be conducted if the amount that is suspected to have been fraudulently obtained or the value of ineligible items purchased with Food Stamps is less than \$35.
- C.** A household suspected of fraud will be sent an "Advance Notice of Hearing" at least 30 days in advance of the scheduled hearing date. Notice will conform to the rules governing fair hearings.
- D.** Participation while awaiting a hearing. A pending fraud hearing shall not affect the individual's or the household's right to be certified and participate in the program.
- E.** The Department will conduct the administrative fraud hearing, arrive at a decision, and initiate administrative action which will make the decision effective within 90 days of the date the household member is notified in writing that the hearing has been scheduled. The household member or representative is entitled to a postponement of up to 30 days.
- F.** Fraud hearing procedures
1. The household member or representative must be advised by the hearing officer, at the start of the hearing, of the household member's right to remain silent during the hearing, but, if the household member so chooses, the hearing decision will be rendered without household participation.
 2. Fraud hearings will be conducted under the same procedures as prescribed by R6-14-504.
 3. When the household member or its representative cannot be located or fails to appear at the hearing without good cause, the hearing will be conducted without the individual being represented.
 4. Rules of procedure contained herein will be made available to any interested party.
- G.** The hearing official's recommendation on the case shall be based exclusively on the hearing record and the decision rendered by the Director of D.E.S. and is binding on the Department. The hearing decision shall take into consideration all issues questioned at the hearing and shall be based exclusively on the hearing record. Decisions of the hearing authority may not run counter to federal law, regulation, or policy. The Director may adopt the hearing officer's recommendation, reject such recommendations and reach a different conclusion based on the hearing record, or remand the matter back to the hearing officer for further evidence.
- H.** Fraud hearing decisions
1. The decision shall:
 - a. Specify the reason for the decision,
 - b. Identify the supporting evidence,
 - c. Identify the pertinent regulation, and
 - d. Respond to reasoned arguments made by the household member or representative.
 2. The hearing authority shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully, and with deceitful intent committed fraud as defined in R6-14-506(A).
- I.** Fraud disqualification
1. The determination of fraud will disqualify only the individual, not the entire household.
 2. The individual found to have committed fraud will be ineligible to participate in the program for 3 months.
 3. If the hearing authority finds that the household member did commit fraud, a written notice will be mailed to the head of the household and to the disqualified member prior to disqualification. The notice will:

- a. Inform the household of the decision;
 - b. State the reason for the decision;
 - c. State the date the disqualification will commence and the duration;
 - d. Notify the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired.
4. When the hearing finds the household member did not commit fraud, a written notice must be issued to the household member within the prescribed timeliness standards.

Historical Note

R6-14-506 recodified from A.A.C. R6-3-2306 effective February 13, 1996 (Supp. 96-1).

R6-14-507. Fraud Hearings -- Appeal

- A. After a household member has been found to have committed fraud by the Director, no further administrative appeal procedure exists.
- B. The household member is entitled to seek relief in a court having appropriate jurisdiction.
 1. In addition to any other civil or criminal fraud penalties, the court will be encouraged to impose a period of disqualification for not less than 6 months and not more than 24 months as determined by the court for individuals found guilty of criminal or civil fraud.
 2. The Department shall comply with the court order to disqualify an individual only for the length of time specified in the court order.
 3. If disqualification is ordered but a date for initiating the disqualification period is not specified, the disqualification period shall be initiated with the 1st month following the date the disqualification was ordered.
 4. A court-ordered disqualification may run concurrently with the 3-month period of disqualification imposed as a result of an administrative fraud hearing. The Department shall not initiate or continue a court-imposed or administratively-imposed fraud disqualification period contrary to a court order.
- C. The Department will refer for prosecution those individuals suspected of committing fraud.

Historical Note

R6-14-507 recodified from A.A.C. R6-3-2307 effective February 13, 1996 (Supp. 96-1).

ARTICLE 6. FOOD STAMPS -- CLAIMS AND RESTORATION OF LOST BENEFITS

R6-14-601. Entitlement to Lost Benefits

- A. When a household receives less benefits than it is entitled, and the loss was not caused by the household, the benefits will be restored, except if lost more than 12 months prior to:
 1. The month of notification by the household of the possible loss,
 2. The month of discovery by the Department of the loss, or
 3. The date a fair hearing was requested to contest the action which resulted in the loss.
- B. When a loss of benefits has occurred, and the loss was not caused by the household, action will be taken to determine entitlement and to restore any lost benefits to the household. No action by the household is necessary.
- C. Lost benefits shall be restored even when the household is currently ineligible.
- D. When a household entitled to restoration of lost benefits does not agree with the amount to be restored, or disagrees with any action taken to restore benefits, the household may request a

fair hearing within 90 days of the date the household was notified of its entitlement to lost benefits. If a household believes it is entitled to restoration of lost benefits but a review of the case file by the Department is contrary, the household has 90 days from the date of the determination to request a fair hearing.

- E. Individuals disqualified for fraud are entitled to restoration of benefits lost when the decision which resulted in the disqualification is subsequently reversed by the court.

Historical Note

R6-14-601 recodified from A.A.C. R6-3-2401 effective February 13, 1996 (Supp. 96-1).

R6-14-602. Method of Restoration

- A. When action is taken to prevent loss for future months and excluding those months for which benefits may have been lost prior to the 12-month time limitation, the amount of benefits to be restored will be calculated only for those months the household participated.
- B. When a claim against a household is unpaid or held in suspense, the amount of lost benefits to be restored will be used to offset the amount due on the claim before the balance, if any, is restored to the household.
- C. A household need not be currently eligible to receive restoration of lost benefits. Households will receive an allotment equal to the amount of benefits that were lost.
- D. When lost benefits are due a household and the household's membership has changed, benefits will be restored to the household containing a majority of the individuals who were household members at the time the loss occurred, or the household containing the individual who was head of the household at the time the loss occurred.
- E. A household who was assigned a purchase requirement that was too high, or an incorrect household size, prior to the elimination of the purchase price provision, will be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result.
- F. Lost benefits will be restored to individuals when a fraud disqualification has been reversed.

Historical Note

R6-14-602 recodified from A.A.C. R6-3-2402 effective February 13, 1996 (Supp. 96-1).

R6-14-603. Reserved**R6-14-604. Establishing Claims Against Households**

- A. A claim will be established against any food stamp household that has received more benefits than it is entitled to receive.
- B. If the household disagrees that an overissuance exists, with the amount of overissuance established by the claim or the schedule of repayment, a fair hearing may be requested.

Historical Note

R6-14-604 recodified from A.A.C. R6-3-2404 effective February 13, 1996 (Supp. 96-1).

R6-14-605. Non-fraud Claims

- A. Non-fraud claims will be established against a household for overissuances which were caused by Departmental error, a misunderstanding, or an inadvertent error on the part of the household.
- B. Action will be taken to establish a claim against a household which received an overissuance if less than 12 months have elapsed between the month of overissuance occurred and the month of the discovery of the overissuance.
- C. After excluding those months which are more than 12 months prior to the date the overissuance was discovered, the correct amount of benefits which should have been received will be

Department of Economic Security - Food Stamps Program

determined for the months of the overissuance. When reported changes result in an overissuance, the month the overissuance initially occurred will be determined.

Historical Note

R6-14-605 recodified from A.A.C. R6-3-2405 effective February 13, 1996 (Supp. 96-1).

R6-14-606. Non-fraud Claims Collection

- A. Collection action will be initiated on all non-fraud claims unless the claim is collected through offset or the total amount of the non-fraud claim is less than the collectible amount or the household cannot be located.
- B. Collection action will be initiated providing the household with a written demand letter.
- C. If the household agrees to pay the claim, payments will be accepted and submitted to FNS in accordance with the prescribed procedures. A claim is considered uncollectible and will be terminated after it has been suspended for 3 years.

Historical Note

R6-14-606 recodified from A.A.C. R6-3-2406 effective February 13, 1996 (Supp. 96-1).

R6-14-607. Fraud Claims

- A. A fraud claim will be established when an administrative fraud hearing has found a household member guilty of fraud.
- B. The amount of a fraud claim will be calculated by determining the correct amount of Food Stamp benefits the household was entitled to receive for each month that a household member fraudulently participated, and subtracting the correct amount from the amount received by the household.
 - 1. The amount of the fraud claim will be calculated to the month the fraudulent act occurred, regardless of the length of time that elapsed until determination of fraud was made.
 - 2. If the household member is determined to have committed fraud by knowingly, willfully, and with deceitful intent failing to report a change in the household circumstances, the 1st month benefits were overissued will be the month after the month the change occurred.

Historical Note

R6-14-607 recodified from A.A.C. R6-3-2407 effective February 13, 1996 (Supp. 96-1).

R6-14-608. Fraud Claims Collection

- A. Collection action will be initiated unless the household has repaid the overissuance, the household cannot be located, or legal representative prosecuting a member of the household for fraud advises in writing that collection will prejudice the case.

- B. When a household member is found guilty of fraud by a court, the Department will request the matter of restitution be brought before the court.
- C. Collection action will be taken by sending the household a written demand letter which informs the household of:
 - 1. The amount owed,
 - 2. The reason for the claim,
 - 3. The period of time the claim covers,
 - 4. Any offsetting that was done to reduce the claim,
 - 5. How the household may pay the claim,
 - 6. The household's right to a fair hearing if the household disagrees with the determination made by the Department.
- D. If the household agrees to pay the claim after the 1st demand letter, the procedures for collecting and submitting payments as prescribed in 7 CFR 273.18 will be utilized.
- E. Demand letters will be sent as necessary. Further collection action may be suspended provided 1 of the following criteria is met:
 - 1. Household cannot be located.
 - 2. The household is financially unable to pay the claim.
 - 3. There is little likelihood that collection or enforcing collection of any significant sum from the household will result.
 - 4. The cost of further collection action is likely to exceed the amount which can be recovered.
 - 5. The claim has been held in suspense for three years.
- F. If a household's membership has changed since the overissuance occurred, collection action will be initiated against the head of the household.
- G. The Department will not deny, terminate, or reduce the benefits of a household solely because the household has refused to pay the fraud claim, nor will the Department threaten to deny, terminate, or reduce benefits.

Historical Note

R6-14-608 recodified from A.A.C. R6-3-2408 effective February 13, 1996 (Supp. 96-1).

R6-14-609. Reserved**R6-14-610. Claims Collection**

Fraud or non-fraud claims will be collected in 1 lump sum if the household is financially able. When the household has insufficient liquid resources or is otherwise financially unable to pay the claim in 1 lump sum, payments will be accepted in regular installments.

Historical Note

R6-14-610 recodified from A.A.C. R6-3-2410 effective February 13, 1996 (Supp. 96-1).

TITLE 6. ECONOMIC SECURITY**CHAPTER 15. DEPARTMENT OF ECONOMIC SECURITY
ARIZONA WORKS PROGRAM**

Editor's Note: This Chapter contains rules which were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6, §§ 1001 et seq.) as specified in Laws 1997, Ch. 300, § 74. Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for approval, and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is being printed on blue paper.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R6-15-101 through R6-15-111, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-101.	Definitions
R6-15-102.	Scope and Application
R6-15-103.	Geographic Scope of Arizona Works
R6-15-104.	Eligibility for Pilot; Relocation Outside Pilot Area
R6-15-105.	AHCCCS Program
R6-15-106.	Food Stamp Program
R6-15-107.	Child Care Assistance Program
R6-15-108.	General Assistance Program
R6-15-109.	EMPOWER Redesign Program
R6-15-110.	Nondiscrimination
R6-15-111.	Confidentiality

ARTICLE 2. APPLICATION PROCESS

Article 2, consisting of Sections R6-15-201 through R6-15-208, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-201.	Application
R6-15-202.	Initial Interview
R6-15-203.	Verification of Information
R6-15-204.	Home Visits
R6-15-205.	Withdrawal of Application; Case Closure
R6-15-206.	Processing the Application; Denial, Approval
R6-15-207.	Periodic Review
R6-15-208.	Cooperation in Providing Information

ARTICLE 3. NONFINANCIAL ELIGIBILITY CRITERIA

Article 3, consisting of Sections R6-15-301 through R6-15-313, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-301.	Citizenship and Alien Status
R6-15-302.	Sponsored Non-citizens
R6-15-303.	Residency
R6-15-304.	Application for Other Potential Benefits
R6-15-305.	Temporary Absence of a Dependent Child
R6-15-306.	Pregnant Women
R6-15-307.	Unwed Minor Parents
R6-15-308.	Teen Parents; School Attendance
R6-15-309.	Assignment of Child Support Rights
R6-15-310.	Cooperation with Child Support Enforcement
R6-15-311.	Good Cause for Noncooperation
R6-15-312.	Compliance with Work Requirements
R6-15-313.	Strikers

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES

Article 4, consisting of Sections R6-15-401 through R6-15-414, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-401.	Treatment of Resources
R6-15-402.	Treatment of Resources by Ownership Status

R6-15-403.	Excluded Resources
R6-15-404.	Resource Transfer; Limits

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME

Article 5, consisting of Sections R6-15-501 through R6-15-506, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-501.	Treatment of Income; Income Limits
R6-15-502.	Income Exclusions
R6-15-503.	Special Income Provisions; Child Support, Alimony, or Spousal Maintenance
R6-15-504.	Special Income Provisions; Nonrecurring Lump-sum Income
R6-15-505.	Calculating Monthly Income
R6-15-506.	Earned Income Disregards

ARTICLE 6. WORK PARTICIPATION; EMPLOYMENT LEVELS

Article 6, consisting of Sections R6-15-601 through R6-15-611, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-601.	Assessment
R6-15-602.	Assignment of Employment Levels
R6-15-603.	Work Requirement
R6-15-604.	Participants Who Are Temporarily Excused from Work Participation
R6-15-605.	Individual Responsibility Plan
R6-15-606.	Job Counselor; Assisted Employment Plan
R6-15-607.	Education and Training Activities
R6-15-608.	Employment Search and Job Readiness Activities
R6-15-609.	Participation Deemed to be Meeting the Work Requirement
R6-15-610.	Support Services
R6-15-611.	Noncompliance; Good Cause

ARTICLE 7. ELIGIBILITY AND PAYMENTS

Article 7, consisting of Sections R6-15-701 through R6-15-706, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-701.	Determining Eligibility
R6-15-702.	Notice of Determination
R6-15-703.	Benefits for Participants in Employment Positions
R6-15-704.	Payment of Benefits for Participation in Levels 3 and 4
R6-15-705.	Nonreceipt of Payments
R6-15-706.	Protective Payee

ARTICLE 8. CHANGES; ADVERSE ACTION

Article 8, consisting of Sections R6-15-801 through R6-15-805, adopted effective November 17, 1998 (Supp. 98-4).

Section

R6-15-801.	Reporting Changes
R6-15-802.	Sanctions; Applicable to Grant
R6-15-803.	Sanctions; Hourly

- R6-15-804. Effective Date
 R6-15-805. Notice of Adverse Action

ARTICLE 9. OVERPAYMENTS

Article 9, consisting of Sections R6-15-901 through R6-15-904, adopted effective November 17, 1998 (Supp. 98-4).

- Section
 R6-15-901. Collection
 R6-15-902. Notice
 R6-15-903. Persons Liable
 R6-15-904. Recoupment

ARTICLE 10. INTENTIONAL PROGRAM VIOLATIONS

Article 10, consisting of Sections R6-15-1001 through R6-15-1003, adopted effective November 17, 1998 (Supp. 98-4).

- Section
 R6-15-1001. Disqualification
 R6-15-1002. Disqualification Sanctions
 R6-15-1003. Recognizing Out-of-state IPV Determinations
 R6-15-1004. Disqualification Proceedings
 R6-15-1005. Disqualification Hearings
 R6-15-1006. Appeals

ARTICLE 11. SUBSIDIZED EMPLOYMENT PROGRAM

Article 11, consisting of Sections R6-15-1101 through R6-15-1102, adopted effective November 17, 1998 (Supp. 98-4).

- Section
 R6-15-1101. Subsidized Employment Program
 R6-15-1102. Subsidized Employer Program; Employer Participation
 R6-15-1103. Limits on Employer Participation; Workforce Waiver

Article 12, consisting of Sections R6-15-1201 through R6-15-1208, adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

ARTICLE 12. APPEALS

Article 12, consisting of Sections R6-15-1201 through R6-15-1208, adopted by exempt rulemaking effective March 22, 1999 (Supp. 99-1).

- Section
 R6-15-1201. Entitlement to a Fact-finding Hearing
 R6-15-1202. Request for a Fact-finding Hearing
 R6-15-1203. Scheduling a Fact-finding Hearing
 R6-15-1204. Notice of Fact-finding Hearing
 R6-15-1205. Fact-finding Procedures; Grievance Officer
 R6-15-1206. Fact-finding Hearing Procedures; Conduct of Proceeding
 R6-15-1207. Fact-finding Hearing Procedures; Decision
 R6-15-1208. Further Appeal

ARTICLE 1. GENERAL PROVISIONS

R6-15-101. Definitions

The following definitions apply in this Chapter:

1. "Adequate notice" means a written notice that:
 - a. Explains the action the Agency intends to take, the reason for the action, the specific authority for the

action, the recipient's appeal rights, and the right to benefits pending appeal; and

- b. Is mailed before the effective date of the action.
2. "Adequate and timely notice" means a written notice that is consistent with R6-15-101(1) and is sent within the time-frame provided for a timely notice.
3. "Adverse action" means 1 of the Agency actions described in R6-15-802(C) or R6-15-803, including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are provided.
4. "Agency" means an entity under contract with the Department to operate the Arizona Works program, A.R.S. § 46-341(1), and is sometimes referred to as the Arizona Works Agency.
5. "AHCCCS" means the "Arizona Health Care Cost Containment System", which is a system established pursuant to A.R.S. § 36-2901 et seq., for the provision of hospitalization and medical care coverage to members.
6. "AHCCCSA" means the "The Arizona Health Care Cost Containment System Administration" which is the Arizona state government agency that administers the AHCCCS program.
7. "Arizona Works" means the program to provide temporary assistance for needy families within the geographic areas of this state in which a private vendor has entered into a contract with the State pursuant to A.R.S. Title 46, Chapter 2, Article 9 (A.R.S. § 46-341(2)).
8. "Arizona Works group," which is sometimes referred to as "the group," means a group consisting of a person who is a custodial parent, all dependent children with respect to whom the person is a custodial parent and any spouse of the person who resides in the same household as the person and any dependent children with respect to whom the spouse is a custodial parent (A.R.S. § 46-341(3).)
9. "Benefit" means a cash grant provided to an Arizona Works group that is in compliance with program requirements.
10. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral-related expenses as evidenced by a written contract.
11. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
12. "Child only case" means an eligible child who is either:
 - a. In foster care as determined pursuant to Title 8, Chapter 5, Article 1, or who is living with a nonparent relative or adult who has obtained guardianship pursuant to Title 14, Chapter 5, Article 2.
 - b. Resides with a parent who meets the Arizona Works financial assistance criteria, but does not meet the nonfinancial criteria [as defined by A.R.S. § 46-346] for reasons other than noncooperation with providing requested information to the Agency (A.R.S. § 46-341(4)).
13. "Community referral" means unsubsidized, unpaid mentoring and work activities that are arranged through community and faith-based service providers and are designed to improve a participant's employability and help the participant obtain unsubsidized employment by providing work experience.
14. "Custodial parent" means, with respect to a dependent child, a parent who resides with that child and, if there has been a determination of legal custody with respect to the dependent child, has legal custody of the child (A.R.S. § 46-341(5)).

Department of Economic Security - Arizona Works Program

15. "DCSE" means the Department's "Division of Child Support Enforcement," which is the state administrative unit responsible for Arizona's Title IV-D child support program and includes contracted county attorneys and contracted private companies.
16. "Department" means the Arizona Department of Economic Security.
17. "Dependent child" means a person under 18 years of age who resides with a parent.
18. "*Diversion option*" means *granting ... [a 1-time payment of] cash assistance to certain applicants who are eligible for Arizona Works but who have only short-term cash assistance needs, and for whom the diversion option is the most appropriate means to self-sufficiency* (A.R.S. § 46-341(7)).
19. "Domestic violence" means an individual has been battered or subjected to extreme cruelty by a spouse or intimate partner, including the following actions:
 - a. Physical acts that resulted in, or threatened to result in, physical injury to the individual;
 - b. Sexual abuse;
 - c. Sexual activity involving a dependent child;
 - d. Being forced to engage in nonconsensual sexual acts or activities;
 - e. Threats of, or attempts at, physical or sexual abuse;
 - f. Mental or emotional abuse; or
 - g. Neglect or deprivation of medical care.
20. "Earned income" means cash or in-kind income received as compensation for wages, salaries, commissions, or profit through employment or self-employment, less the earned income disregards for initial applicants allowed under R6-15-506.
21. "Education directly related to employment" means adult basic education (remedial reading and math) and English for Speakers of Other Languages (ESOL), for adults who have not attained a high school diploma or GED.
22. "Eligibility determination date" means the date the Agency makes the decision described in R6-15-702 and issues an eligibility decision notice.
23. "Employment level" means 1 of the 4 tiers in the Program. Each tier contains structured work activities at progressive levels and is designed to meet the federal work requirements, improve a participant's employability, and assist the participant in obtaining employment as described in R6-15-602.
24. "Employment plan" means the agreement between the participant and the Agency describing the steps and services needed to transition a participant to self-sufficiency.
25. "Employment search," which is sometimes referred to as "job search," means a structured activity in which a participant actively seeks employment by identifying employment opportunities, applying for employment, and participating in employment interviews.
26. "Encumbrance" means a legal debt.
27. "Equity value" means fair market value minus encumbrances.
28. "Fair consideration" means an amount which reasonably represents the fair market value of transferred property.
29. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.
30. "Foster care maintenance payment" means a monetary amount which the Department pays to a foster parent for the expenses of a child in foster care.
31. "Foster child" means a child placed in a foster home or a child welfare agency.
32. "Full-time employment" means employment that is 40 hours per week, or a lesser amount if less is regarded as full-time for a specific industry.
33. "GED" means a general equivalency degree which is a certificate awarded upon completion of a series of 5 tests that demonstrate high school skills equivalency.
34. "Good cause" means reasons deemed acceptable by the Agency, in accordance with federal and state law, which prevent a participant from participating in work activities, complying with Agency requirements, or accepting employment.
35. "Homebound" means a person who is confined to the home because of physical or mental disability.
36. "Income" means earned and unearned income, combined.
37. "*Individual Responsibility Plan*" means *an agreement between the Agency and the participant regarding the participant's work activities and services provided by the Agency* (A.R.S. § 46-341(8)).
38. "*Job counselor*" means *a caseworker employed by the Agency to provide financial or employment counseling services to a participant* (A.R.S. § 46-341(9)).
39. "Job readiness activities" means activities to help a person prepare for employment, including employment-related education and training, life skills, employment, and job retention skills.
40. "Job skills training" means training opportunities which enable a participant to become proficient in an occupation or skill necessary to meet the participant's employment goal.
41. "Licensed physician" means a:
 - a. Medical doctor,
 - b. Doctor of osteopathy,
 - c. Doctor of naturopathic medicine,
 - d. Chiropractor,
 - e. Psychiatrist, or
 - f. Board-certified psychologist.
42. "Liquid asset" means cash or another financial instrument that is readily convertible to cash.
43. "Lump sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, nonrecurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
44. "Member" means a person who is included in an Arizona Works group.
45. "*Minimum wage*" means *the federal minimum hourly wage under 29 U.S.C. § 206(a)(1)* (A.R.S. § 46-341(10)).
46. "Minor parent" means a custodial parent who is under age 18.
47. "Non-citizen" means a person who is not a United States citizen.
48. "Non-citizen sponsor" which is sometimes referred to as "sponsor," means a person who, or an organization which, has executed an affidavit of support or similar agreement on behalf of a non-citizen who is not the child or spouse of the sponsor, as a condition of the non-citizen's entry into the United States.
49. "Notice date" means the date that appears as the official date of issuance on a document or an official written notice the Agency sends or gives to an applicant or recipient.
50. "OSI" means the "Office of Special Investigations", which is the Department's office to which the Agency will refer cases for investigation of certain eligibility

- information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
51. "Overpayment" means a cash grant payment received by or for an Arizona Works group in excess of the amount to which the group was lawfully entitled.
 52. "Parent" means the lawful mother or father of a dependent child and includes only a birth or adoptive parent.
 53. "Participant" means an individual who participates in the Arizona Works Program.
 54. "Participating in a strike" means engaging in any activity as defined at 29 U.S.C. 142(2), as amended through June 23, 1947, which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Services Department, 1700 West Washington, Phoenix, Arizona.
 55. "Putative father" means a male person whom a birth mother has named as father of her child, but whose paternity has not been established as a matter of law.
 56. "Qualified quarter of coverage" has the same meaning as prescribed in 8 U.S.C. 1645 (August 22, 1996) which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Services Department, 1700 West Washington, Phoenix, Arizona.
 57. "Recipient" means a person who is a member of an Arizona Works group or a person who is only receiving child care assistance from the Agency.
 58. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).
 59. "Resources" means the group's real and personal property.
 60. "Review" means a review of all factors affecting a group's eligibility and assistance amount.
 61. "Sanction" means a reduction or termination of an Arizona Works group's employment level grant for failure to participate or comply with Agency requirements without good cause.
 62. "Satisfactory attendance in high school or GED activities" means that a participant who has not completed high school or received a GED is attending high school or GED activities and meeting attendance requirements established by the school or GED program.
 63. "Satisfactory participation in education directly related to employment" means that a participant is meeting, on a periodically measured basis, a consistent standard of progress based upon standards established by the educational institution or program the participant is attending.
 64. "Self-sufficiency" means a condition where a person relies on the person's own income and resources for support of self and family, and does not need to rely on cash grant payments under Arizona Works.
 65. "Sponsored non-citizen" means a non-citizen whose entry into the United States was sponsored by a person who, or an organization which, executed an affidavit of support or similar agreement on behalf of the non-citizen, who is not a child or spouse of the sponsor.
 66. "Student" means a person who is:
 - a. Attending a school, college, or university;
 - b. Enrolled in a course of vocational or technical training designed to prepare the trainee for gainful employment; or
 - c. A participant in Job Corps.
 67. "Subsidized paid employment," which is sometimes referred to as "subsidized employment" or the "Subsidized Employment Program," means employment in a public or private sector organization that receives an Agency subsidy to offset the cost of wages (and possibly other employer-paid benefits) of an employee.
 68. "Suitable work" means work in an occupation that a person can successfully perform.
 69. "Support" means child support payments, alimony payments, spousal maintenance payments, or medical support.
 70. "SVES" means the "State Verification and Exchange System" which is a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and state wage and unemployment insurance benefit data files.
 71. "Teen custodial parent," for the purpose of work requirements, means a parent, under age 20, who is caring for that person's own child.
 72. *"Temporary Assistance for Needy Families" means assistance granted under Section 403 of Title IV of the Social Security Act as it exists after August 21, 1996 (A.R.S. § 46-341(1)).*
 73. "Trial job" means an unsubsidized, unpaid position the Agency has solicited from the community to improve the employability of a participant by providing work experience and training to assist the participant to obtain unsubsidized employment.
 74. "Unaffordable child care" means that child care is not affordable to a family because the cost of care is more than what the Agency will pay and would require additional payment by the participant.
 75. "Unavailable child care" means no child care provider:
 - a. Is located within 1 1/2 hours, 1 way, from a recipient's home to work by way of the provider, after exploring all modes of transportation, except for walking. When the only method of transportation is walking, unavailable child care means no child care provider is located within 1/2 hour, 1 way, from a recipient's home to work by way of the provider;
 - b. Has available slots or vacancies; or
 - c. Can provide services to a disabled or handicapped child with special needs.
 76. "Unearned income" means income received from sources other than employment, self-employment, or in-kind income.
 77. "Unsubsidized employment" means all paid employment in the public or private sector except subsidized paid employment.
 78. "Unsuitable child care" means that child care is available through a relative provider, but the recipient declares in writing that the relative provider is inappropriate because the provider:
 - a. Has a history of committing or allowing child neglect or abuse;
 - b. Is experiencing domestic violence;
 - c. Has a history of serious crime;
 - d. Is a drug abuser;
 - e. Has an emotional, mental, or physical condition that prevents the relative from providing safe care; or
 - f. Resides in a home which is unsafe for children.

Department of Economic Security - Arizona Works Program

79. "Unwed minor parent" means a parent under age 18 who is not married.
80. "Vendor payment" means a money payment made on behalf of a participant directly to a provider of goods or services.
81. "Work activities" [as defined in A.R.S. § 46-101(23)] means activities that are countable toward the federal work participation rate as prescribed in P.L. 104-193, Section 407 (1996):
- Unsubsidized employment.
 - Subsidized private or public employment.
 - Work experience.
 - On-the-job training.
 - Job search and job readiness assistance.
 - Community service programs.
 - Vocational educational training.
 - Job skills training directly related to employment.
 - Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency.
 - Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.
82. "Work day" means Monday through Friday, excluding Arizona state holidays.
83. "Work experience" means unpaid work in the public or private sector through which a participant establishes a good work record, develops good work habits and skills, and encounters opportunities to transition into unsubsidized paid employment. A good work record is determined as satisfactory attendance and acceptable performance in the particular job being completed based on requirements set by the employer and generally imposed on all persons working in that same capacity for the employer.
84. "Work requirement" means the minimum number of hours required for all families and 2-parent families to participate in work activities as a condition of eligibility for Arizona Works, as prescribed in 42 U.S.C. 607 (August 22, 1996), not including any later amendments or editions, which is incorporated by reference in this rule. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 W. Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Services Department, 1700 W. Washington, Phoenix, Arizona.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-102. Scope and Application

- The rules in this Chapter apply to persons who apply for and are determined eligible for Arizona Works in the geographic area described in R6-15-103.
- The rules in this Chapter do not apply to an Arizona Works group who moves outside the geographic area listed in R6-15-103.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-103. Geographic Scope of Arizona Works

- The Arizona Works pilot project operates in the following cities and zip codes:

- Mesa - 85201, 85202, 85203, 85204, 85205, 85206, 85207, 85208, 85210, 85211, 85212, 85213, 85215, and 85240.
- Phoenix - 85022, 85023, 85024, 85027, 85028, 85029, 85032, 85044, 85045, 85048, and 85254.
- Scottsdale - 85250, 85251, 85252, 85255, 85256, 85257, 85258, 85259, 85260, 85268, and 85271.
- Chandler - 85224, 85225, 85226, 85227, 85244, 85248, and 85249.
- Tempe - 85281, 85282, 85283, 85284, and 85287.
- Gilbert - 85233, 85234, 85296, and 85299.
- Glendale - 85304 and 85306.
- Carefree - 85377.
- Cave Creek - 85331.
- Fountain Hills - 85269.
- Higley - 85236.
- Paradise Valley - 85253.
- Queen Creek - 85242.
- Any new and successor zip code areas created to cover the same geographical areas covered by the zip codes listed above.

- The Arizona Works pilot project shall not include any municipality having more than 35% of the residents who qualify for another federal Temporary Assistance for Needy Families program based on the residents' status as members of an Indian tribe. All residents of the municipality shall remain under the EMPOWER Redesign program.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-104. Eligibility for Pilot; Relocation Outside Pilot Area

To be eligible for Arizona Works assistance, an individual shall live in a zip code area listed in R6-15-103 and meet the eligibility requirements prescribed in this Chapter.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-105. AHCCCS Program

If the Health Care Financing Administration of the U.S. Department of Health and Human Services approves the Arizona Works waiver request, the Agency shall determine eligibility for the AHCCCS program in accordance with the laws, rules, policies, and practices prescribed and promulgated in accordance with A.R.S. Title 36, Chapter 29.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-106. Food Stamp Program

If the U.S. Department of Agriculture approves the Arizona Works waiver request, the Agency shall determine eligibility for the Food Stamp program in accordance with the laws, rules, policies and practices prescribed and promulgated in accordance with 7 U.S.C. 2011-2029 and Title 8 of Public Law 104-193 as it applies to Arizona.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-107. Child Care Assistance Program

The Agency shall determine eligibility for the Child Care Assistance program in accordance with the laws, rules, policies and practices prescribed and promulgated in accordance with Laws 1997, Chapter 300 (SB 1357) as amended by Laws 1998, Chapter 211 (SB 1082), and 6 A.A.C. 5, Articles 49 and 51.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-108. General Assistance Program

The Agency shall determine eligibility for the State General Assistance program in accordance with the laws, rules, policies and practices prescribed and promulgated under A.R.S. Title 6, Chapter 13 and R6-13-701.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-109. EMPOWER Redesign Program

- A. Notwithstanding the rules, policies, and practices prescribed and promulgated in accordance with A.R.S. §§ 46-342, 46-346, 46-348, and this Chapter, an individual who is qualified for benefits in the Department's EMPOWER Redesign program, including income disregards, is automatically qualified for the Arizona Works pilot program.
- B. Adults or adult relatives, who apply on behalf of a child or children for a child-only case in Arizona Works, shall have eligibility for the child-only case determined under the same eligibility provisions as the Department's EMPOWER Redesign program.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-110. Nondiscrimination

The Arizona Works Agency shall administer the Arizona Works program in accordance with the nondiscrimination provisions of R6-1-501.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-111. Confidentiality

- A. Personally identifiable information.
 - 1. All personally identifiable information concerning an applicant or recipient in the possession of the Agency is confidential and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
 - 2. Personally identifiable information includes:
 - a. Name, address, and telephone number;
 - b. Social security number and date of birth;
 - c. Unique identifying numbers such as a driver's license number;
 - d. Photographs;
 - e. Information related to social and economic conditions or circumstances;
 - f. Medical data, including diagnosis and past history of disease or disability; and
 - g. Any other information that is reasonably likely to permit another person to readily identify the subject of the information.
- B. Release of information to applicants and recipients.
 - 1. An applicant or recipient may review the contents of the applicant's or recipient's own eligibility file at any time during the Agency's regular business hours. An Agency employee may be present during the review.
 - 2. A child may review a case file in which the child is included as a recipient, only with the written permission of the child's parent, or legal guardian or custodian.
 - 3. The Agency may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information, until the Agency contacts the person's physician and obtains an opinion that the Agency can safely release the information.
- C. Release of information to authorized persons and representatives. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to

another person or representative by executing a release form containing the following information:

1. The specific information the Agency is authorized to release;
 2. The name of the person to whom the Agency may release information;
 3. The duration of the release, if limited; and
 4. The applicant or recipient's signature and date.
- D. Release to persons and agencies for official purposes.
1. An official purpose is a purpose directly related to the administration of a public assistance program and includes:
 - a. Establishing eligibility;
 - b. Determining the amount of an assistance grant;
 - c. Providing services to applicants and recipients, including child support enforcement services provided by Arizona or other states;
 - d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
 - e. Evaluating, analyzing, overseeing, and auditing program operations.
 2. The Agency may release confidential information to the following persons and agencies to the extent required for official purposes:
 - a. Agency and Department employees;
 - b. Employees of the Social Security Administration;
 - c. Public assistance agencies of any other state;
 - d. Persons who administer or perform child support enforcement activities;
 - e. Arizona Attorney General's Office;
 - f. United States, Arizona, or other appropriate court systems;
 - g. Persons connected with the administration of federal or federally assisted programs that provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
 - h. Government auditors when the audits are conducted in connection with the administration of any assistance program by a governmental entity that is authorized by law to conduct an audit;
 - i. AHCCCSA, for eligibility purposes;
 - j. Law enforcement officials for an investigation, prosecution, or civil or criminal proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program; and
 - k. The Internal Revenue Service for the purpose of identifying improperly claimed tax exemptions by the absent parent of a child supported by an Arizona Works cash grant.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 2. APPLICATION PROCESS**R6-15-201. Application**

- A. A person may apply for Arizona Works either in person or by mail by submitting, to the Agency, an application with the following information:
 1. The legible name and address of the person requesting assistance; and
 2. The signature, under penalty of perjury, of:
 - a. The applicant or the applicant's authorized representative; or
 - b. If the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.

- B. A person shall apply to the Agency office for the person's zip code area.
- C. In addition to the information described in subsection (A), a completed application shall contain:
 1. The names of all people living with the applicant and their relationship to the applicant; and
 2. All other financial and nonfinancial eligibility information requested on the application form and described in this Chapter, including a notarized affidavit of paternity.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-202. Initial Interview

- A. Upon receipt of an application with the information listed in R6-15-201(A), the Agency shall schedule an initial work assessment for the applicant. Upon request, the Agency shall conduct the interview at the residence of a person who is homebound.
- B. The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
- C. During the interview, an Agency representative shall:
 1. Help the applicant complete the application form;
 2. Witness the signature of the applicant or the applicant's authorized representative;
 3. Discuss how the applicant and the other group members previously met their needs, and why they now need assistance;
 4. Explain that the purpose of Arizona Works is to provide a temporary work assignment to prepare an individual for unsubsidized work;
 5. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the Arizona Works program;
 - b. Any additional verification information as prescribed in R6-15-203(A) which the applicant needs to provide for the Agency to conclude the eligibility evaluation;
 - c. The Agency's practice of exchanging eligibility and income information through the State's Verification and Exchange System (SVES);
 - d. The coverage and scope of the Arizona Works program and related services which may be available to the applicant;
 - e. The applicant's rights, including the right to appeal adverse action;
 - f. The AHCCCS enrollment process;
 - g. The requirement to report all changes within 10 calendar days from the date the change becomes known; and
 - h. The family planning services available through AHCCCS health plans;
 6. Review the penalties for perjury and fraud;
 7. Review any verification information already provided;
 8. Explain the applicant's duties to:
 - a. Cooperate with DCSE to establish paternity, and a current support order, and to enforce support obligations, unless the applicant can show good cause for not doing so;
 - b. Send DCSE any support payments the applicant receives after the date the applicant is approved to receive Arizona Works assistance;
 - c. Participate in the work requirements; and
 - d. Complete the paternity affidavit;
 9. Help the applicant complete the paternity affidavit;
 10. Photograph the applicant for identification purposes;

11. Inform the applicant of the requirements to cooperate in the Arizona Fingerprint Imaging Program as prescribed in A.R.S. §§ 46-217 and 46-218;
12. Review all ongoing reporting requirements and the potential penalties for failure to make timely reports;
13. Inform the applicant of the opportunity to set aside funds in an individual development account as prescribed in R6-15-403 for educational or training purposes; and
14. Explain and review the diversion option for cash assistance for eligible applicants as prescribed in A.R.S. § 46-353.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-203. Verification of Information

- A. The Agency shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law, or when necessary to determine eligibility.
- B. The Agency may verify or corroborate information by any reasonable means including:
 1. Contacting 3rd parties such as employers,
 2. Making home visits as provided in R6-15-204,
 3. Asking the applicant or recipient to provide written documentation such as billing statements or pay stubs, and
 4. Conducting a computer data match through SVES.
- C. The applicant or recipient has the primary responsibility to provide all required verification and to explain why receipt of information may be delayed for a reason listed in subsection (D)(1). The Agency shall offer to help an applicant or recipient who has difficulty obtaining verification and advises the Agency of the difficulty.
- D. An applicant or recipient shall provide the Arizona Works Agency with all requested verification within 10 calendar days from the notice date of a written request for information.
 1. The Agency may extend the 10-day period when:
 - a. The requested information is coming from a source that is out of state and not readily available;
 - b. The requested information is available only from a source that requires a fee for the information, and payment of the fee would cause financial hardship to the applicant;
 - c. The source of information is a 3rd person, such as a landlord or employer, who is unavailable; or
 - d. The individual has tried to obtain the information but has been unsuccessful for reasons beyond the individual's control.
 2. When an applicant does not timely comply with a request for information, the Agency shall deny the application as provided in R6-15-206(C).
- E. The application form shall contain a notice to advise the applicant that the Agency may contact 3rd parties for information. The applicant's signature on an application is deemed consent to the contact.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-204. Home Visits

- A. The Agency shall schedule a home visit:
 1. When a job counselor reasonably believes that a home visit will avoid an eligibility determination error. or
 2. To conduct an initial interview or an eligibility review when a homebound applicant or recipient so requests.
- B. The Agency shall mail the applicant or recipient written notice of a scheduled home visit at least 10 calendar days before the date of the visit.

- C. The Agency may deny or terminate assistance if the applicant or recipient misses a scheduled home visit for:
 1. An initial interview and does not timely reschedule the visit; or
 2. A 6-month review interview and does not timely reschedule the visit.
- D. The Agency may conduct unscheduled visits to gather information or to verify information previously provided by an applicant or recipient. The Agency shall not deny an application or terminate assistance if the applicant or recipient is not home for an unscheduled visit.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-205. Withdrawal of Application; Case Closure

- A. An applicant may withdraw an application at any time prior to its disposition by giving the Agency a written request for withdrawal, signed by the applicant.
- B. If an applicant makes an oral request to withdraw an application, the Agency shall:
 1. Accept the oral request,
 2. Provide the applicant with a written withdrawal form,
 3. Request that the applicant complete the form and return it to the Agency, and
 4. Tell the applicant what will happen if the applicant does not return the withdrawal form within 10 calendar days.
- C. If the applicant fails to return the completed withdrawal form, the Agency shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 calendar days of the date the Agency gives the applicant a withdrawal form.
- D. A withdrawal is effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- E. The Agency shall not reinstate an application that has been withdrawn. An applicant who withdraws an application shall reapply.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-206. Processing the Application; Denial, Approval

- A. The Agency shall complete the eligibility determination for Arizona Works assistance within 45 days and select the appropriate employment placement level for the participant within 60 days of the application file date.
- B. The Agency may terminate the application process and close the file when:
 1. The application is withdrawn;
 2. The application is rendered moot because the applicant has died or cannot be located; or
 3. There is a delay resulting from the Agency request for additional verification information as provided in R6-15-203(D).
- C. The Agency shall deny an application when the applicant fails to:
 1. Complete the application and an eligibility interview, as described in R6-15-202;
 2. Submit all required verification information, as prescribed in R6-15-203; or
 3. Cooperate during the application process as required by Article 2 of this Chapter.
- D. When an Arizona Works group satisfies all eligibility criteria, the Agency shall approve the application and send the applicant an approval notice. The approval notice shall include the amount of assistance and an explanation of the assistance unit's appeal rights. The notice may also include assignment to an employment level.

- E. The Arizona Works Agency shall process an application for the purpose of determining medical assistance eligibility pursuant to R9-22-101 et seq.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-207. Periodic Review

- A. The Agency shall periodically review all eligibility factors for each Arizona Works group and each participant's employment placement level. The review shall occur:
 1. At least once every 6 months from the date of application, and
 2. More often if the job counselor needs to reassess the participant's employment placement.
- B. At least 30 days before the 6-month review date, the Agency shall schedule the recipient for a review interview.
- C. The Agency shall conduct the review interview in the same manner as an initial interview.
- D. The Agency shall verify the Arizona Works group's resources and income and any eligibility factors which have changed or are subject to change. The Agency may verify other factors if the Agency experience suggests the need for additional verification.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-208. Cooperation in Providing Information

The participant shall cooperate in providing all requested information within the time-frames specified by the Agency. When the participant refuses to cooperate in providing requested information, the Agency shall deny the application or close the case, after giving notice.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 3. NONFINANCIAL ELIGIBILITY CRITERIA**R6-15-301. Citizenship and Alien Status**

- A. To qualify for Arizona Works, a person shall be a United States citizen or a lawful alien, as prescribed in A.R.S. § 46-346(A)(2).
- B. The Agency shall verify legal alien status by obtaining a person's alien registration documentation, or other proof of immigration registration, from the U.S. Immigration and Naturalization Service (INS), or by submitting a person's alien registration number and other related information to the INS.
- C. An ineligible alien may serve as payee for the eligible members of the Arizona Works group.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-302. Sponsored Non-citizens

- A. The Agency shall determine eligibility of sponsored non-citizens based on whether they are classified as a 213A alien or a non-213A alien. The Agency shall determine the income and resources of a non-213A alien in accordance with limitations in 42 U.S.C. 608(f) (August 22, 1996). This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Services Department, 1700 West Washington, Phoenix, Arizona. The remaining provisions in this Section apply to 213A sponsored non-citizens.
- B. A sponsored non-citizen is ineligible for Arizona Works until the sponsored non-citizen:

1. Attains United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or
2. Has 40 qualifying quarters of work.
- C. A sponsored non-citizen who seeks benefits shall obtain the cooperation of the sponsor as necessary to satisfy the eligibility criteria described in this Chapter.
- D. The Agency shall consider the full income and resources of a non-citizen sponsor and the sponsor's spouse as available to the sponsored non-citizen until:
 1. The sponsored non-citizen attains United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or
 2. The sponsored non-citizen has 40 qualifying quarters of work.
- E. Subject to Article 4 concerning treatment of resources, the Agency shall consider the total equity value of resources belonging to the sponsor and the sponsor's spouse as available to the sponsored non-citizen.
- F. Subject to Article 5 concerning treatment of income, the Agency shall consider the full income of the sponsor and the sponsor's spouse available to the sponsored non-citizen.
- G. When a person sponsors 2 or more non-citizens, the Agency shall not prorate the sponsor's income and resources but shall count the sponsor's full income and resources as available to all sponsored non-citizens.
- H. The sponsored non-citizen and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause so as to make the non-citizen solely liable. Good cause includes:
 1. The Agency failed to inform the non-citizen or the sponsor that the information was necessary; or
 2. Extenuating personal circumstances prevented the sponsor from providing necessary information.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-303. Residency

- A. To qualify for the Arizona Works program, a person shall be an Arizona resident.
- B. An Arizona resident is a person who:
 1. Voluntarily resides and intends to make a permanent home in Arizona,
 2. Lives in Arizona at the time of making application and while receiving an Arizona Works cash grant, and
 3. Is not receiving public assistance from another state.
- C. A person terminates Arizona residency by:
 1. Leaving Arizona for more than 30 consecutive days,
 2. Leaving Arizona with the intent to live elsewhere, or
 3. Accepting public assistance from another state.
- D. The dependent child of a caretaker relative who is an Arizona resident is deemed an Arizona resident.
- E. The Agency shall verify Arizona residency.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-304. Application for Other Potential Benefits

The members of the Arizona Works group shall cooperate in applying for other public assistance programs or resources that the Agency believes may be available to the members.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-305. Temporary Absence of a Dependent Child

- A. A dependent child who is temporarily not living with the child's custodial parent is eligible for Arizona Works when:
 1. At the initial application, the dependent child will return within 30 days from the date the Agency places the applicant in a work level;
 2. At the 6-month review appointment for an active case, the dependent child will return within 180 days from the date the custodial parent 1st notified the Agency of the temporary absence;
 3. The custodial parent continues to exercise responsibility for the care and control of the child; and
 4. The child is not absent because:
 - a. The child was removed by the state child protection agency; or
 - b. The child is in a penal institution that is meeting all of the child's basic needs.
- B. The child's custodial parent is ineligible for Arizona Works, if a dependent child will be or is absent from home for longer than a period specified in subsection (A).

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-306. Pregnant Women

- A. Upon compliance with all other eligibility criteria and procedures, a pregnant woman with no other dependent children may be eligible for the Arizona Works program as though the child was already born.
- B. Following birth of the child, the mother shall inform the Agency of the child's birth and provide all necessary information regarding the birth within 10 calendar days after the birth of the child to maintain eligibility for the Arizona Works Program.
- C. Eligibility shall begin no earlier than 3 months before the predicted month of delivery.
- D. If the child is miscarried, stillborn, or born prematurely, and the woman reports such event to the Agency within 10 calendar days of the occurrence,
 1. The occurrence does not affect the woman's original eligibility, and
 2. No overpayment is owed.
- E. The pregnant woman shall cooperate with the work requirements based on her employment placement level but may be excused from the work requirements as provided in A.R.S. § 46-350(B).

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-307. Unwed Minor Parents

- A. For the purposes of this Section, a minor parent means a person who:
 1. Is under age 18;
 2. Has never married; and
 3. Is either the natural parent of a dependent child living in the same household or is pregnant and eligible for assistance under R6-15-306.
- B. An Arizona Works group headed by a minor parent is not eligible for an Arizona Works cash grant, except as provided in subsection (C) below.
- C. A minor parent may receive a cash grant when the minor parent satisfies 1 of the tests listed in this subsection:
 1. The minor parent has no living or locatable:
 - a. Parent,
 - b. Legal custodian who is related to the minor parent, or
 - c. Legal guardian.

2. The minor parent is legally emancipated.
 - a. A minor parent is emancipated if the minor parent's parent or legal guardian has relinquished all control and authority over the minor parent and no longer provides financial support to the minor parent.
 - b. A minor parent is emancipated if the minor parent:
 - i. Has lived apart from the parent, adult specified relative, or legal guardian for at least 1 year before applying for Arizona Works;
 - ii. Has demonstrated financial independence from the parent, adult specified relative, or legal guardian for at least 1 year before applying for Arizona Works; and
 - iii. Has not received Arizona Works assistance, or Cash Assistance from the Department, for each of the 12 consecutive months immediately preceding the month the minor parent applies for Arizona Works.
 - c. The minor parent shall provide evidence to establish emancipation. Acceptable verification may include:
 - i. Rent receipts or other living arrangement statements which establish independent living apart from the parent, adult specified relative, or legal guardian;
 - ii. Income statements or income tax records which establish financial independence from the parent, adult specified relative, or legal guardian; or
 - iii. Written statements from a parent, relative, or guardian which establish the independent status of the minor parent.
3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian, or legal guardian.
 - a. The minor parent shall file a written statement of abuse or neglect with the Arizona Works Agency.
 - i. Abuse means any behavior defined in A.R.S. § 8-546(A)(2).
 - ii. Neglect means any behavior defined in A.R.S. § 8-546(A)(6).
 - b. The written statement shall include the following information regarding the allegations of abuse or neglect:
 - i. The name of the victim,
 - ii. The name of the perpetrator,
 - iii. The dates of the alleged abuse or neglect,
 - iv. The nature of the alleged abuse or neglect, and
 - v. Whether or not other children living in the home are subject to the abuse or neglect.
 - c. The Agency shall report all allegations of abuse or neglect to Child Protective Services.
 - d. Unless evidence to the contrary exists, the Agency shall accept the minor parent's written statement of abuse or neglect as sufficient evidence that the health or safety of the minor parent, or minor parent's child, would be at risk, pending the outcome of a Child Protective Services assessment.
 - e. If Child Protective Services substantiates the allegation of abuse or neglect, the minor parent and the minor parent's child may receive an Arizona Works cash grant if otherwise eligible under this Chapter.
 - f. If Child Protective Services is unable to confirm or refute the allegation of abuse or neglect, the minor parent shall remain eligible based on the minor parent's written statement.
 - g. If Child Protective Services determines the allegation of abuse or neglect is unsubstantiated:
 - i. The Agency shall inform the minor parent of the determination and allow the minor parent 60 days to return to the home of the parent, custodian, or legal guardian;
 - ii. The Agency shall terminate the cash grant effective the 1st month following expiration of the 60-day period; and
 - iii. The Agency shall not create an overpayment for assistance paid based on the minor parent's written statement of alleged abuse or neglect.
- D. A minor parent, and the minor parent's child, who are ineligible for an Arizona Works cash grant solely due to the provisions of this Section, may receive the following services, if otherwise eligible:
 1. AHCCCS medical services;
 2. Employment counseling, services, and placement;
 3. Child care assistance; and
 4. Any other program or service for which Arizona Works recipients categorically qualify.
- E. The provisions of this Section do not apply to a parent who is under age 18 and who is married or has been married.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-308. Teen Parents; School Attendance

For purposes of this Section, a teen parent who is under age 20 and has not attained a high school diploma, or its equivalent, shall not be eligible for the Arizona Works Program unless the teen parent maintains:

1. Satisfactory attendance at a secondary school, or its equivalent; or
2. Satisfactory participation in education directly related to employment.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-309. Assignment of Child Support Rights

- A. To qualify for the Arizona Works program, an applicant shall assign to the state all rights to any support obligation that may be held by any member of the Arizona Works group, including any unpaid support obligation or support debt which has accrued at the time of the assignment and accrues while receiving assistance.
- B. A refusal to assign support rights to the state is a refusal to complete the application and shall result in denial of the Arizona Works application.
- C. After being approved for the Arizona Works program, the recipient shall submit to the state all monetary support the recipient receives directly.
- D. When the Agency receives any monetary support that a recipient received directly from the obligor, the Agency shall accept the monetary support and forward the amount to the state.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-310. Cooperation with Child Support Enforcement

- A. At the time of the initial interview and at all review interviews, the Agency shall explain:
 1. The applicant's duty of cooperation with the Agency and DCSE;
 2. Good cause for noncooperation and how to establish it;

3. The duty to send the state any support the Arizona Works group members receive; and
 4. The consequences for breach of the duties set forth in this Section.
- B.** An applicant or recipient shall cooperate with the Agency and DCSE to obtain support owed to the applicant or recipient, unless there is good cause for noncooperation as described in A.R.S. § 46-347 and A.A.C. R6-15-311.
- C.** Cooperation shall include taking actions necessary for:
1. Identifying and locating the parent of a child for whom aid is claimed;
 2. Establishing the paternity of a child born out-of-wedlock for whom aid is claimed;
 3. Obtaining support payments or other payments or property due the applicant or recipient for the benefit of the child; and
 4. The following actions, when relevant or necessary:
 - a. Appearing at a child support enforcement office to provide oral or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;
 - b. Submitting and having the child submit to genetic testing;
 - c. Signing authorizations for 3rd parties to release information concerning the applicant or the child, or both;
 - d. In cases in which parentage has not been established, providing a sworn statement alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties;
 - e. Appearing as a witness at a judicial or administrative hearing or proceeding;
 - f. Providing additional information, or attesting to the lack of information, under penalty of perjury; and
 - g. Paying to the state any support payments received from the absent parent after signing the assignment of rights pursuant to R6-15-309(A).
- D.** If the applicant or recipient fails to cooperate as required by subsection (B) without good cause, the Agency shall sanction the Arizona Works group as specified in A.R.S. § 46-300.
1. In A.R.S. § 46-300, an "instance of noncompliance" means that a recipient does not cooperate as required by subsection (B) for the Arizona Works pilot project.
 2. When a recipient's noncompliance continues into the subsequent month, that month will be considered the next instance of noncompliance and result in the next level of graduated sanction.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-311. Good Cause for Noncooperation

- A.** An applicant or recipient may establish good cause for noncooperation with the Agency as provided in A.R.S. § 46-347(B).
- B.** A person shall provide evidence to verify good cause within 20 days of filing a claim of good cause as prescribed in A.R.S. § 46-347(C).
- C.** The applicant or recipient shall immediately notify DCSE if a court issues a protective order or an order against harassment involving the noncustodial parent or putative father.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-312. Compliance with Work Requirements

- A.** As a condition of eligibility, an Arizona Works participant shall comply with the work requirements of the Arizona Works program.
- B.** If a person fails or refuses to comply with the work requirements without good cause as prescribed in R6-15-611, the Agency shall sanction the Arizona Works group as described in Article 8 of this Chapter.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-313. Strikers

The Agency shall determine eligibility for Arizona Works cash benefits during a strike period using the striker's pre-strike monthly income.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES**R6-15-401. Treatment of Resources**

- A.** In determining eligibility, the Arizona Works Agency shall include all resources available to the Arizona Works group, unless excluded by applicable law.
- B.** An Arizona Works group is ineligible for assistance for any month in which the group's resources exceed \$2,000, after application of all available exclusions.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-402. Treatment of Resources by Ownership Status

- A.** The Agency shall consider the resources belonging to the persons listed in this subsection available to the Arizona Works group.
1. An Arizona Works group member; and
 2. The sponsor of an alien, as provided in Article 3.
- B.** The Agency shall consider the resources of the persons listed in this subsection unavailable to the Arizona Works group.
1. A nonparent relative or adult, who is living in the home, who is not included in the Arizona Works group;
 2. An SSI recipient, as to resources held as sole and separate property or counted in the determination of SSI eligibility; and
 3. A dependent child who is not included in the assistance unit due to receipt of adoption assistance or foster care payments under Title IV-E of the Social Security Act.
- C.** The Agency shall consider ownership in determining whether a resource is available to the Arizona Works group.
1. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are deemed available when all owners can be located and consent to disposal of the resource, except that consent is not required if all owners are members of the Arizona Works group.
 2. Jointly owned resources with ownership records containing the word "or" between the owners' names are deemed available in full to each owner. When more than 1 owner is a member of an Arizona Works group, the Agency shall count the equity value of the resource only once.
- D.** The Agency shall consider the following resources unavailable to the Arizona Works group:
1. Property subject to a spendthrift restriction. Such property may include:
 - a. Irrevocable trust funds;
 - b. Accounts established by the Social Security Administration, Veteran's Administration, or some other entity, which mandate that the funds in the account

- be used for the benefit of a person not residing with the Arizona Works group.
- 2. Resources being disputed in divorce proceedings or in probate matters.
- 3. Real property situated on a Native American reservation.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-403. Excluded Resources

The Agency shall exclude the equity value of the resources listed below, as provided in this Section.

1. The usual residence that serves as the homestead of the Arizona Works group members;
2. One burial plot for each member of the Arizona Works group;
3. Household furnishings used by the Arizona Works group members in their usual place of residence and personal effects essential to day-to-day living;
4. Up to \$1500 of the value of 1 bona fide funeral agreement for each member of the Arizona Works group;
5. The equity value of all vehicles owned by the Arizona Works group, up to a total of \$4,500;
6. Individual development accounts which are designed to set aside funds for educational or training purposes;
7. Any other resource specifically excluded by law.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-404. Resource Transfer; Limits

- A. An applicant or recipient shall not transfer a resource with the intent to qualify or attempt to qualify for the Arizona Works program within 1 year prior to application or while receiving assistance, unless fair consideration was received.
- B. Except as otherwise provided in this Section, when an applicant or recipient does not receive fair consideration for a transferred resource ("an improper transfer"), the Arizona Works group is ineligible for assistance.
 1. The period of ineligibility begins in the month in which the transaction occurred.
 2. The Agency shall compute the duration of ineligibility by subtracting the consideration actually received from the equity value of the transferred resource and dividing that sum by 36% of the 1992 Federal Poverty Level for the Arizona Works group. The resulting number is the number of months the group is ineligible.
- C. The group is not ineligible because of an improper transfer if the equity value of the transferred resource, plus the value of the group's other available resources, does not exceed the resource limitation.
- D. An improper transfer of homestead property shall not affect eligibility if the property was transferred because a member was unable to continue living in the home for health reasons, as determined by a licensed physician.
- E. If an applicant or recipient disposes of homestead property, the Agency shall count, as a resource, all proceeds of the sale not reinvested in homestead property, when the applicant or recipient:
 1. Invests the proceeds in a resource other than homestead property,
 2. Advises the Agency that the group will not reinvest the proceeds in other homestead property, or
 3. Fails to purchase new homestead property within 90 days of the date of sale.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME**R6-15-501. Treatment of Income; Income Limits**

- A. The Agency shall treat all income of the Arizona Works group in accordance with the provisions of this Article.
- B. As used in this Section, the term "income" shall include the following, when actually received by the Arizona Works group:
 1. Gross earned income from public or private employment, including in-kind income, before any deductions;
 2. For self-employed persons, the sum of gross business receipts minus business expenses; and
 3. Unearned income, such as monetary benefits or assistance grants, minus any deductions to repay prior overpayments or attorneys' fees.
- C. To qualify for Arizona Works, the Arizona Works group's gross income, minus the group's allowable earned income disregards under R6-15-506, shall be at or below 36% of the 1992 Federal Poverty Level.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-502. Income Exclusions

When determining income for an Arizona Works group, the Agency shall not count the following types of income:

1. Loans;
2. Educational grants or scholarships;
3. Income tax refunds, including any earned income tax credit;
4. Nonrecurring cash gifts that do not exceed \$30 per person in any calendar quarter;
5. Cash contributions from other agencies or organizations which are meant to cover expenses for a recipient's needs other than for items in the following list:
 - a. Food;
 - b. Shelter, including only rent or mortgage payments;
 - c. Utilities;
 - d. Household supplies, including bedding, towels, laundry, cleaning, and paper supplies;
 - e. Public transportation fares for personal use;
 - f. Basic clothing or diapers; or
 - g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
6. The face value of food stamp coupons;
7. The value of governmental rent and housing subsidies;
8. The value of energy assistance which is provided:
 - a. Either in cash or in-kind by a government agency or municipal utility; or
 - b. In-kind by a private, nonprofit organization;
9. Vendor payments;
10. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments which are not intended as wages;
11. Earnings from high school, on-the-job training programs;
12. Reimbursements for Arizona Works Program training-related expenses;
13. Agent Orange payments;
14. Burial benefits which are dispersed solely for burial expenses;
15. Disaster assistance provided by the Federal Disaster Relief Act, or comparable assistance provided by state or local governments, or disaster assistance organizations;
16. Foster care payments;
17. Radiation exposure compensation payments;

Department of Economic Security - Arizona Works Program

18. Income received from the Volunteers In Service To America (VISTA) program which does not exceed the state or federal minimum wage;
19. Benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
20. Reimbursements for work-related expenses, which do not exceed the actual expense amount;
21. Earned income of dependent children who are students enrolled and attending school at least half-time as defined by the institution;
22. Income received from Americorp Network Program;
23. Any other income specifically excluded by applicable state or federal law; and
24. The amount of subsidized wages from Level 2 employment.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-503. Special Income Provisions; Child Support, Alimony, or Spousal Maintenance

- A. The Agency shall count support payments received by a member of the Arizona Works group before the eligibility determination date as income in the month received.
- B. After the eligibility determination date, and if the application is approved, the Agency shall count current support payments that are received and retained by DCSE, on behalf of an Arizona Works group member, as unearned income in the month received for the purpose of determining continued eligibility. The Agency shall attribute the income to the Arizona Works group and add it to the group's other income to determine if the group meets the financial eligibility criteria.
- C. After the eligibility approval date, if DCSE notifies the Agency that an Arizona Works group member fails to turn over the support assigned to the Department, the Agency shall:
 1. Count the support received directly by an Arizona Works group member, as provided in subsection (A); and
 2. Sanction the grant as provided in R6-15-802.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-504. Special Income Provisions; Nonrecurring Lump-sum Income

When an Arizona Works group receives a nonrecurring lump sum payment, the Agency shall treat the lump sum payment as a resource in accordance with Article 4.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-505. Calculating Monthly Income

- A. The Agency shall calculate monthly income for an Arizona Works group using the methods described in this Section.
- B. The projected income shall include income which the Arizona Works group has received and reasonably expects to receive in an assistance month and shall be based on the Agency's reasonable expectation and knowledge of the Arizona Works group's current, past, and future circumstances.
- C. The Agency shall include in its calculation all gross income from every source available to the Arizona Works group unless the income is specifically excluded in this Article.
- D. The Agency shall convert income received more frequently than monthly into a monthly amount as follows:
 1. Multiply weekly amounts by 4.3,
 2. Multiply biweekly amounts by 2.15,
 3. Multiply semi-monthly amounts by 2.
- E. The Agency shall determine a new calculation of projected income:

1. At each review, and
 2. When there is a change in countable income.
- F. The Agency shall determine projected monthly income for an Arizona Works group by the methods described below.
1. Averaging income.
 - a. When using this method, the Agency shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
 - b. The Agency shall average income for an Arizona Works group which receives income:
 - i. Irregularly; or
 - ii. Regularly, but from sources or in amounts which vary.
 2. Prorating income.
 - a. When using this method, the Agency shall average income over the period of time the income is intended to cover.
 - b. The Agency shall prorate income for an Arizona Works group which receives income intended to cover a fixed period of time. When a person receives income pursuant to a fixed-term employment contract:
 - i. Income is counted in the month received, if received monthly or more often, throughout all months of the contract;
 - ii. Income is prorated over the number of months in the contract if payment is received before or during the time work is performed but not as specified in subsection (F)(2)(b)(i) above; and
 - iii. Income is prorated over the number of months in the contract if payment is received upon completion of the work.
 - c. For Arizona Works cases under subsection (F)(2)(b)(iii) above, the Agency shall total the resulting amounts for each month and count the amount in the month received as a lump sum under R6-15-504.
 3. Actual income.
 - a. When using this method, the Agency shall use the actual amount of income received in a month and shall not convert the income to a monthly amount as indicated in subsection (D).
 - b. The Agency shall use actual income for an Arizona Works group which:
 - i. Receives or reasonably expects to receive less than a full month's income from a new source,
 - ii. Has lost a source of income, or
 - iii. Is paid daily.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-506. Earned Income Disregards

For the purpose of determining income eligibility for an initial applicant, as provided in R6-15-701(B)(3), the Agency shall disregard the following income:

1. Income of a dependent child, as described below:
 - a. All earned income derived from JTPA participation, for up to 6 months per calendar year;
 - b. All unearned income derived from JTPA participation; and
 - c. All income derived from the Summer Youth Employment and Training Program (SYETP);
2. A \$90 cost of employment disregard for each employed person included in the Arizona Works group;

3. The full amount of verified billed expenses for the care of each dependent child and incapacitated adult group member who is receiving an Arizona Works cash grant, up to \$200.00 a month for a child under 2 years of age and up to \$175.00 a month for each other dependent; and
4. For each wage-earning member of the group, 30% of each member's earned income after 1st applying the disregards listed in subsections (1) through (3) above.

Article 6, consisting of Sections R6-15-601 through R6-15-611, adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

ARTICLE 6. WORK PARTICIPATION; EMPLOYMENT LEVELS

R6-15-601. Assessment

- A. Except in child-only cases, an applicant shall meet with a job counselor to determine the most appropriate program for self-sufficiency and to develop an individual responsibility plan.
- B. The job counselor shall assess the participant's employability, based on the participant's:
 1. Educational and employment history;
 2. Skills, talents, and interests;
 3. Need for child care or other support services; and
 4. Family circumstances and other factors which may affect the participant's employability, including domestic violence as described at R6-15-604(A)(1).

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-602. Assignment of Employment Levels

- A. The Agency shall assign the participant to the most appropriate level of employment based on the assessment conducted under R6-15-601.
- B. Arizona Works has the following 4 levels of employment listed below:
 1. A Level 1 placement means full-time unsubsidized employment in which the job counselor shall assist the person in the employment search.
 2. A Level 2 placement means subsidized, paid employment in which the Agency pays an employer a subsidy to employ a participant in work that will give the participant training and experience designed to improve the participant's employability and help the participant move promptly to unsubsidized employment.
 3. A Level 3 placement means a trial job that is an unsubsidized, unpaid position the Agency has solicited from the community at large and is designed to improve the participant's employability by providing work experience and training to help the participant to move promptly to unsubsidized employment.
 4. A Level 4 placement means a community referral in which the participant chooses a work assignment from a variety of community and faith-based service providers under contract with the Agency.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-603. Work Requirement

- A. A recipient of Arizona Works shall participate in work activities except as provided in subsection (B).

- B. The Agency shall not require a recipient to participate in work activities if the recipient is:
 1. A dependent child under age 16, or age 16 through 18 and attending school; or
 2. Temporarily excused from work participation under R6-15-604.
- C. The Agency shall assign all recipients not excused under subsection (B) to work activities for at least the minimum number of hours per week required to meet the work requirement.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-604. Participants Who Are Temporarily Excused from Work Participation

- A. The Agency may temporarily excuse from participation in assigned work activities a recipient who is:
 1. A victim of domestic violence whose participation in work activities poses an immediate threat to the safety of the recipient or the recipient's child;
 2. Experiencing health problems as determined by a licensed physician, which prevent participation in work activities; or
 3. Experiencing a family emergency which prevents participation in work activities;
- B. If the Agency excuses a person for domestic violence under subsection (A)(1), the Agency shall limit the deferral to the time the recipient needs to make changes in circumstances which will enable the recipient to safely participate in work activities. The temporary deferral shall not exceed 6 months.
- C. The Agency shall temporarily excuse from participation in assigned work activities a recipient who is:
 1. In the last 2 weeks of pregnancy, or
 2. Caring for her newborn child for up to 12 weeks after the child's birth or for a length of time verified as medically necessary by a licensed physician.
- D. The Agency shall request, and the participant shall provide, verification to substantiate the reason the participant is being temporarily excused from work participation for a reason listed in this Section.
- E. The job counselor shall determine, based on verification provided by the participant:
 1. The appropriateness of a participant's request to be temporarily excused, and
 2. The length of time a participant is temporarily excused from work participation.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-605. Individual Responsibility Plan

Based on the assessment prescribed in R6-15-601, the job counselor, in consultation with the participant, shall develop an individual responsibility plan for the participant, which shall include:

1. The participant's responsibility to move toward self-sufficiency and to meet the work requirement,
2. The participant's employment goal,
3. The participant's understanding of the consequences for not cooperating with the requirements of Arizona Works,
4. How the Agency will assist the participant to move toward self-sufficiency, and
5. Signatures of the participant and job counselor.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-606. Job Counselor; Assisted Employment Plan

- A. If a participant uses the services of the job counselor to obtain employment and meets nonfinancial eligibility requirements

prescribed in Article 3 and financial eligibility requirements prescribed in Articles 4 and 5, the job counselor shall, in consultation with the participant:

1. Develop the employment plan, and
 2. Assign the participant to 1 of the 4 employment levels in R6-15-602.
- B.** The employment plan shall include:
1. The employment goal;
 2. Work activities, including begin and end dates;
 3. Support services the Agency will provide to the participant; and
 4. Signatures of the participant and job counselor.
- C.** The signed employment plan shall serve as an agreement between the Agency and the participant.
- D.** The job counselor, in consultation with the participant, may revise the employment plan as needed to ensure the participant continues to advance toward the employment goal.
- E.** The Agency shall sanction the participant, as set forth in R6-15-802 and R6-15-803, for failure to comply with the terms of the agreement.
- F.** When an applicant does not use the services of the job counselor, the application for Arizona Works will be denied.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-607. Education and Training Activities

- A.** The job counselor may assign a participant to education and training activities, in addition to 1 of the employment placement levels, as part of the employment plan and as required to help a participant obtain employment.
- B.** Total participation in the work placement level and education and training activities shall not exceed 40 hours per week.
- C.** The Agency shall deem a teen custodial parent to meet the work requirement if the teen parent participates in educational activities as described in R6-15-609(A).
- D.** The job counselor may assign a participant to the following education and training activities:
1. Employment-related training and education activities, for up to 1 year, which may include:
 - a. Technical college courses,
 - b. Educational courses that provide an employment skill, and
 - c. Other employment-related education and training.
 2. Job readiness training in accordance with limitations as prescribed at R6-15-608;
 3. Secondary school or GED preparation;
 4. English for Speakers of Other Languages (ESOL);
 5. Adult basic education, which includes remedial reading and math; and
 6. Job skills training.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-608. Employment Search and Job Readiness Activities

- A.** The job counselor may assign a participant to employment search and job readiness activities as part of the employment plan and as required to help a participant obtain employment.
- B.** Employment search or job readiness activities, or any combination of the 2, shall count toward the work requirement in accordance with limitations in 42 U.S.C. 607 (August 22, 1996). This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, Public Services Department, 1700 West Washington, Phoenix, Arizona.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-609. Participation Deemed to be Meeting the Work Requirement

- A.** The Agency shall deem the following participants to be meeting the work requirement:
1. An individual who is participating in work activities for at least the minimum average number of hours per week as described in R6-15-603(C);
 2. A single, teen custodial parent or married teen parent under age 20 who:
 - a. Is head of household,
 - b. Has not obtained a high school diploma or GED, and
 - c. Maintains satisfactory attendance in high school or GED activities; and
 3. A single, teen custodial parent or a married teen parent under age 20 who:
 - a. Is head of household,
 - b. Has not obtained a high school diploma or GED, and
 - c. Satisfactorily participates in education directly related to employment for at least the minimum number of hours required to meet the work requirement.
- B.** A participant who falls in 1 of the categories shown in subsection (A), who is deemed to be meeting the work requirement, may participate in additional work activities.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-610. Support Services

- A.** The Agency shall ensure that child care is provided for all Arizona Works work activities except, in 2-parent families, child care is provided only when both parents are meeting the work requirement.
- B.** The Agency may provide other support services to enable the participant to engage in work activities and obtain employment.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-611. Noncompliance; Good Cause

- A.** If a participant fails to appear for an interview as an assigned work activity, the job counselor shall determine whether good cause exists as described in subsection (C) or (D) below.
- B.** To establish good cause, the participant shall notify the job counselor within 10 calendar days of the reasons for not complying with the work requirements.
- C.** Good cause for noncompliance with work requirements shall include the following circumstances:
1. The participant had a required court appearance;
 2. The participant needed child care to participate in or accept employment and verifies that child care for a child under the age of 13 was unavailable, unaffordable, or unsuitable;
 3. The participant was ill and unable to work;
 4. Inclement weather prevented the participant and others similarly situated from traveling to the employment site;
 5. Any absence due to a mandatory meeting, administrative hearing, or court appearance to comply with child support enforcement requirements; or
 6. Other comparable or similar circumstances beyond the participant's reasonable control.
- D.** The job counselor may require the participant to provide written documentation of good cause, including:
1. A court appointment notice, warrant, or subpoena;
 2. Information from the DES Child Care Administration;

3. A physician statement;
 4. Public knowledge or newspaper article; or
 5. When no other verification is available, a signed participant statement containing all factors contributing to the failure to comply.
- E.** If a participant fails to participate without good cause, the Agency shall sanction the participant under R6-15-802 and R6-15-803.
- F.** A participant who wishes to appeal Agency determinations regarding good cause or sanctions shall file a written request with the Agency.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 7. ELIGIBILITY AND PAYMENTS**R6-15-701. Determining Eligibility**

- A.** The Agency shall determine eligibility for a specific benefit month based on its best estimate of all nonfinancial, resource, and financial criteria that exist, and are expected to exist, for that month.
- B.** An Arizona Works group is eligible for Arizona Works when the Agency finds that the group:
1. Satisfies the nonfinancial eligibility criteria described in this Chapter;
 2. Does not exceed the resource limits described in Article 4 of this Chapter; and
 3. Does not have gross income, less earned income disregards allowed by R6-15-506, in excess of 36% of the 1992 Federal Poverty Level.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-702. Notice of Determination

- A.** If the Arizona Works group satisfies all eligibility criteria as specified in this Chapter, the Agency shall send notice of approval to the applicant.
- B.** If the Arizona Works group does not satisfy 1 or more of the eligibility criteria specified in this Chapter, the Agency shall send a denial notice to the applicant's last known address. The notice shall describe the action taken, the specific authority for the action, the applicant's right to request a hearing to challenge the action, and the procedures for obtaining a hearing.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-703. Benefits for Participants in Employment Positions

- A.** An Arizona Works participant shall receive compensation listed in this Section:
1. For Level 1 employment: the unsubsidized amount paid by the employer.
 2. For Level 2 employment: the subsidized amount paid by the employer.
 3. For Level 3 employment: a maximum monthly grant of \$390.00.
 4. For Level 4 employment: a maximum monthly grant of \$350.00.
 5. For pregnant women or a custodial parent of a child who is 12 weeks old or younger: a maximum monthly grant of \$390.00 or the amount offered under the parent's employment placement, whichever is less.
 6. For child-only cases: A maximum monthly grant of \$204.00 for the 1st child and \$72.00 per month for each additional child paid to the adult or adult relative who is caring for the child or children.

- B.** The Agency shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-704. Payment of Benefits for Participation in Levels 3 and 4

The Agency shall approve eligibility and the Department shall issue benefits to an eligible Arizona Works group only during a month for which the group is eligible for a payment.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-705. Nonreceipt of Payments

If a participant reports nonreceipt of a payment once work has been completed, the Department shall replace the benefit within 3 work days from the date of the report.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-706. Protective Payee

- A.** The Department shall issue benefits to a protective payee who is not a member of the Arizona Works group:
1. On behalf of all group members when a state or tribal protective service agency notifies the Agency that the recipient is mismanaging or misappropriating benefits, and
 2. On behalf of all group members other than the designated recipient when the recipient has been disqualified as the result of an intentional program violation and the Agency determines that the recipient is ineligible to receive Arizona Works cash payments.
- B.** The Agency, with the assistance of the recipient, shall select a protective payee, who may be any adult other than the following:
1. An employee in the Department's Office of Special Investigations,
 2. A Department or Agency employee who handles fiscal processes related to the cash assistance program,
 3. An Agency officer,
 4. An Agency interviewer,
 5. An Agency job counselor, or
 6. A vendor of goods or services who deals directly with the recipient.
- C.** Protective payments shall terminate:
1. In cases of mismanagement, upon a determination by the protective services agency that protective payments are no longer required to avoid further mismanagement; and
 2. In IPV cases, when the recipient's period of disqualification for the related IPV determination ends.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 8. CHANGES; ADVERSE ACTION**R6-15-801. Reporting Changes**

- A.** As a condition of eligibility, the Arizona Works group shall advise the Agency of all changes in income, resources, employment, or other circumstances which may affect eligibility, within 10 calendar days from the date the change becomes known.
- B.** A change report is timely if the mailing date is on or before the 10th day from the date the change becomes known.
- C.** As a condition of eligibility, a custodial parent shall notify the Agency when a dependent child is absent from the home for a

period longer than 30 days. The parent shall notify the Agency within 5 calendar days from the date that the parent determines that the dependent child will be absent.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-802. Sanctions; Applicable to Grant

- A. The Agency shall impose a series of graduated sanctions as described in subsection (C) for the following:
 1. Failure to comply with an interview with a prospective employer,
 2. Failure to comply with assigned educational or training activities, or
 3. Failure to comply with assigned work activities.
- B. Noncompliance with 1 or more of the requirements listed in subsection (A) during any calendar month is deemed a month of noncompliance and shall result in the sanctions prescribed in subsection (C).
- C. The Agency shall impose the following sanctions even if the months of noncompliance are consecutive:
 1. For the 1st sanction due to any noncompliance, the monthly grant is reduced by 25%;
 2. For the 2nd sanction due to any noncompliance, the monthly grant is reduced by 50%;
 3. For the 3rd or subsequent sanctions due to any noncompliance, the cash grant is terminated for at least 1 month and the termination continues until the participant meets with the job counselor and begins the assigned activities.
- D. The Agency shall terminate eligibility for a custodial parent who fails to give notice as prescribed in R6-15-801(C).

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-803. Sanctions; Hourly

- A. If a participant is placed in level 3 or 4, the Agency shall reduce the grant amount by \$3.25 per hour for each hour the participant misses scheduled employment preparation activities or employment without good cause. The job counselor shall determine good cause under R6-15-611.
- B. The Agency shall apply the hourly sanctions to the 1st cash assistance payment possible.
- C. For placement under level 2, the employer shall pay the employee for only the number of hours worked, in accordance with the employer's regular policies for all similarly situated employees.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-804. Effective Date

Ineligibility for an individual member of an Arizona Works group begins on the 1st day of the 1st month in which the member or group did not meet the eligibility requirements.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-805. Notice of Adverse Action

- A. When the Agency plans to take adverse action against an Arizona Works group, the Agency shall provide the group with adequate and timely notice, except as provided in subsection (D) below.
- B. The Agency shall mail the timely notice, 1st class, postage prepaid, to the group's last known residential address or other designated mailing address 10 days prior to the effective date of the adverse action.
- C. In addition to the information listed in R6-15-101(1), the notice shall contain the following information:

1. The date the adverse action is effective, and
 2. Any effect the intended action may have on the group members' other benefits.
- D. The Agency may dispense with timely notice but shall provide adequate notice of adverse action when:
1. A participant or payee dies and no emergency payee is available;
 2. A participant makes a written request for termination;
 3. A participant is ineligible due to incarceration, hospitalization, or institutionalization in a skilled nursing care or intermediate care facility;
 4. The participant's address is unknown;
 5. The Agency has verified that the participant has been accepted for cash assistance outside the Arizona Works project area;
 6. A dependent child who is a member of an Arizona Works group and is not a child-only case, is legally removed from home, or voluntarily placed in foster care by the child's parent or legal guardian; or
 7. The participant furnishes information that results in reduction or termination of cash assistance and indicates in writing an understanding of the consequences that may result from furnishing the information.
- E. A recipient is presumed to have received the notice of adverse action on the 10th day following the mailing date of the notice when the Agency has mailed the notice to the person's last known address of record, unless the facts show otherwise.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 9. OVERPAYMENTS

R6-15-901. Collection

- A. Except as provided in subsection (D), the Department's Office of Accounts Receivable and Collections shall pursue collection of all overpayments.
- B. The Agency shall write an overpayment report within 90 days of determining that an overpayment exists.
- C. If the Agency suspects that an overpayment was caused by fraudulent activity, the Agency shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
- D. The Department shall not try to collect an overpayment from a person who is not a current recipient when the overpayment was not the result of an intentional program violation or fraud, and:
 1. The total overpayment is less than \$35; or
 2. The Department has exhausted reasonable efforts to collect an overpayment of \$35 or more, and has determined that it is no longer cost-effective to pursue the claim.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-902. Notice

The Department shall issue a notice of overpayment to the Arizona Works group after the Department receives an overpayment report from the Agency.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-903. Persons Liable

- A. The Department shall pursue collection of an overpayment from:
 1. The Arizona Works group that was overpaid;
 2. Any Arizona Works group of which a member of the overpaid group has subsequently become a member; or

3. Any individual member of the overpaid group, even if that member is not currently receiving benefits.
- B. The Department shall try to collect 1st from the caretaker relative, or the caretaker relative's current Arizona Works group. If the caretaker relative is unavailable due to death or disappearance, or was not a member of the overpaid group, the Department shall try to collect from the other members of the overpaid group, or the other members' current Arizona Works groups.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-904. Recoupment

- A. When an overpaid Arizona Works group is currently receiving benefits, the Department shall permit the group to choose 1 of the following repayment methods:
 1. Offset against any underpayment due the group;
 2. Cash payments;
 3. Reduction in current benefits for participation in employment positions, in an amount not to exceed 10% of the group's monthly payment, unless the group desires a larger reduction;
 4. A combination of the above methods.
- B. If the repayment reduces the group's cash assistance to 0, the group is still eligible for Arizona Works for all other purposes.
- C. If the Arizona Works group is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

ARTICLE 10. INTENTIONAL PROGRAM VIOLATIONS**R6-15-1001. Disqualification**

- A. An intentional program violation (IPV) is an action by an individual for the purpose of establishing or maintaining the family's eligibility for Arizona Works or for increasing or preventing a reduction in the amount of the benefit which is:
 1. An intentionally false or misleading statement or misrepresentation, concealment, or withholding of facts; or
 2. Intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- B. For the purpose of imposing sanctions under R6-15-1002, a person is deemed to have committed an IPV if:
 1. The person signs a waiver of an administrative disqualification hearing,
 2. The person is found to have committed an IPV by an administrative disqualification hearing, or
 3. The person is convicted of IPV or fraud in a court of law.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-1002. Disqualification Sanctions

- A. An Arizona Works group that contains a person found to have committed an IPV is disqualified from program participation for 1 year for the 1st violation; 2 years for the 2nd violation; and permanently for the 3rd violation.
- B. Upon a determination of IPV, the Agency shall notify the violator of the pending disqualification. The notice shall:
 1. Inform the violator of the decision and the reasons for the decision;
 2. Provide the beginning date and duration of the disqualification, including an explanation of any deferment of disqualification; and
 3. Explain the consequences of the disqualification on group members other than the violator.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

R6-15-1003. Recognizing Out-of-state IPV Determinations

The Agency shall honor sanctions imposed against an applicant or recipient by the Department or an agency of another state and shall consider prior violations committed in another area or state when determining the appropriate sanction.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

Section R9-15-1004 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1004. Disqualification Proceedings

- A. The Agency shall initiate an administrative disqualification proceeding, or a referral for prosecution, upon receipt of sufficient documentary evidence substantiating that an Arizona Works group member has committed an IPV.
- B. When the Agency initiates a disqualification proceeding, the Agency shall mail the Arizona Works group member suspected of an IPV written notice of the right to waive the disqualification hearing.
- C. The waiver notice shall include the following information:
 1. The charges against the applicant/recipient and a description of the evidence supporting the charges;
 2. An explanation of the disqualification sanctions imposed for intentional program violations;
 3. A warning that the administrative proceeding does not preclude other civil or criminal court action;
 4. The date by which the Agency must receive the signed waiver notice should the applicant/recipient wish to avoid the hearing;
 5. Signature lines for the applicant/recipient and the applicant/recipient's current caretaker relative if the applicant/recipient is not the caretaker relative;
 6. A statement that the caretaker relative must also sign the waiver if the applicant/recipient is not the caretaker relative;
 7. A statement of the applicant/recipient's right to remain silent concerning the charge;
 8. A warning that anything said, written, or signed by the applicant/recipient concerning the charge may be used against him or her in administrative proceedings or a court of law;
 9. A warning that any waiver of the hearing establishes an IPV, eliminates the right to further administrative appeal, and will result in disqualification and a reduction in the cash assistance for other Arizona Works group members for the period of disqualification;
 10. Statements providing the applicant/recipient an opportunity to admit to the facts supporting disqualification or waive the hearing without admitting to the facts;
 11. The name, address, and telephone number of an Agency representative whom the applicant may contact for further information;
 12. A list of persons who and organizations which may provide the applicant/recipient with free legal advice regarding the IPV; and

13. A warning that the Agency shall hold any remaining group members responsible for repayment of any overpayment arising from the IPV.
- D. For the purpose of imposing sanctions under R6-15-1002, a signed waiver notice has the same effect as an administrative adjudication that an IPV occurred.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Editor's Note: Section R6-15-1005 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

R6-15-1005. Disqualification Hearings

- A. If the applicant/recipient does not sign and return the waiver notice by the return date set in the waiver notice, the Agency shall conduct the IPV disqualification hearing and send the applicant/recipient a written notice of hearing by certified mail, return receipt requested, at least 30 days before the scheduled hearing.
- B. The notice of hearing shall include the following information:
1. The date, time, and place of the hearing;
 2. The charges against the applicant/recipient;
 3. A summary of the evidence supporting the charges;
 4. The location where the applicant/recipient may examine the supporting documentation before the hearing;
 5. A warning that the grievance officer shall render a decision based solely on the information the Agency offers if the applicant/recipient does not appear for the hearing;
 6. An explanation of the applicant/recipient's right to show good cause for a failure to appear at the hearing and the procedure for doing so;
 7. An explanation of the sanctions the Agency shall impose if the grievance officer finds that the applicant/recipient committed an IPV;
 8. A listing of the applicant/recipient's procedural rights;
 9. A warning that the pending administrative hearing does not preclude other civil or criminal court action;
 10. A statement advising of any free legal advice which may be available;
 11. A statement explaining how to obtain a copy of the Agency's published hearing procedures; and
 12. A statement that the applicant/recipient may have the hearing postponed for good cause by contacting the grievance officer at least 10 calendar days before the hearing date and asking for a postponement.
- C. The grievance officer shall postpone a hearing for up to 30 days if the applicant/recipient files a written request for postponement with the grievance official no later than 5 calendar days before the scheduled hearing date. Days of postponement increase the time for the grievance officer's decision, as provided in subsection (F).
- D. At the start of the disqualification hearing, the grievance officer shall advise the applicant/recipient or representative of the right to remain silent during the hearing, and the consequences of exercising that right.
- E. A grievance officer, as described in R6-15-1205, shall conduct the disqualification hearing pursuant to the procedures set forth in R6-15-1206 and R6-15-1207, except as prescribed in this subsection.

1. The applicant/recipient does not need to request a hearing.
 2. The Agency shall prove, by clear and convincing presentation of the facts, that the household member committed an IPV.
 3. So long as the Agency sent an advance notice of hearing as provided in subsections (A) and (B), the grievance officer shall conduct the disqualification hearing even if the applicant/recipient or representative cannot be located or fails to appear at the hearing without good cause.
- F. No later than 60 days from the date of the notice of hearing, as increased by any postponement days, the grievance officer shall send the suspected violator a written decision as described in R6-15-1207, and with the information described in R6-15-1002(B).

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Editor's Note: Section R6-15-1006 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

R6-15-1006. Appeals

- A. If an IPV is established through an administrative disqualification hearing, the applicant/recipient may seek administrative review of the grievance officer's decision under A.R.S. Title 41, Chapter 6, Article 10.
- B. If an IPV is established through a signed waiver of a disqualification hearing, the violator has no right to further administrative appeal.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

ARTICLE 11. SUBSIDIZED EMPLOYMENT PROGRAM

R6-15-1101. Subsidized Employment Program

- A. The job counselor may assign a participant to the Subsidized Employment Program after assessing the participant's skills and experience, as described in R6-15-601, and developing an employment plan, as described in R6-15-606.
- B. The Agency shall make referrals to employers by matching a participant's skills, experience, and employment goal with employer requirements.
- C. Participants shall work up to 40 hours per week. The minimum number of hours is determined by the work requirement.
- D. An employer shall pay at least the federal minimum hourly wage.
- E. The Agency shall schedule the participant for an interview with the prospective employer and notify the participant of the interview date, place, and time.
- F. The employer shall decide whether to hire the participant.
- G. A participant shall abide by an employer's regular requirements regarding:
1. Submitting an application for employment,
 2. Appearing for interviews,
 3. Providing necessary information such as citizenship verification,
 4. Hours of employment,
 5. Attendance,

- 6. Job performance,
 - 7. Conduct, and
 - 8. Other similar conditions of the employment.
- H.** A participant shall:
- 1. Appear for any required assessment interview with the job counselor;
 - 2. Accept and maintain subsidized employment;
 - 3. Establish good cause for failing to participate, as described in R6-15-611;
 - 4. Report changes to the job counselor which affect subsidized employment participation such as:
 - a. Accepting or refusing an offer of permanent employment,
 - b. Absence from or termination of employment,
 - c. Job position or function modifications, and
 - d. Other similar events.
- I.** At the end of each work week, a participant shall complete and sign the Agency form on which the participant shall indicate the participant's name, days and hours worked, and pay received. The participant shall obtain the signature of the supervisor, or the supervisor's designee, on the form and send the form to the job counselor.
- J.** The job counselor shall reassess the person's employability after each 6 months of an individual's participation in subsidized employment.
- K.** Subsidized employment assignments may continue for up to 6 months with an option to renew the placement for an additional 3 months at the discretion of the job counselor if the employer and the participant agree to continue the employment.
- 1. If a participant's employer wishes to request an extension, the employer shall request the extension in writing and shall provide the following information on which the job counselor shall base the decision to extend:
 - a. Name of the participant for whom the extension is requested,
 - b. Position for which an extension is requested,
 - c. What additional experience or training is needed to achieve competency,
 - d. The employer's expectation for hiring the individual following the extension,
 - e. The length of the extension, and
 - f. Any information the employer has to show that extension is necessary.
 - 2. A participant who receives an extension of the subsidized employment placement shall conduct a job search for up to 8 hours per week during the extension; and
 - 3. The employer shall consider time the participant spends in the job search, up to 8 hours per week, as hours worked for the purpose of paying wages.
- L.** If the subsidized employer does not hire the participant for an unsubsidized position after 9 months in the placement, the job counselor, with the concurrence of the participant, shall terminate the placement and reassess the participant's employment needs.
- M.** Total subsidized employment time for a participant shall not extend past 4 6-month assignments, for a total of 24 months.
- N.** The employer may terminate the assignment by contacting the job counselor.
- O.** Upon receipt of a termination request, the job counselor shall review the placement to determine whether the employer or the participant violated work requirements. If no violation occurred, the job counselor shall:
- 1. Reassess the needs and skills of the participant, and
 - 2. Assign the participant to:
 - a. Another subsidized employment placement, or
 - b. Placement in another employment level or work activity.
- P.** If the employer terminates the participant for willful misconduct during employment, or if the participant refuses to comply with work requirements, refuses to accept a subsidized employment assignment without good cause, or establishes a pattern of early self-termination from Program placements, the job counselor shall:
- 1. Place the participant in an appropriate employment level, and
 - 2. Sanction the participant under R6-15-802.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).

Editor's Note: Section R6-15-1102 was amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

R6-15-1102. Subsidized Employer Program; Employer Participation

- A.** To qualify for participation in the subsidized employment program, an employer shall:
- 1. Agree to place a participant in a position for a number of hours that is not less than that required by the federal work requirement and not more than 40 hours per week;
 - 2. Reasonably expect to offer the participant an opportunity for full-time, unsubsidized employment;
 - 3. Not put the participant in a position that will displace a regular employee;
 - 4. Limit the number of subsidized employees to at least 1 employee but no more than 10% of the workforce, unless the Agency grants a waiver allowing more under A.R.S. § 46-352(B);
 - 5. Pay wages that are equal to wages paid for similar jobs, with like adjustments for experience and skills, but never less than federal minimum wage;
 - 6. Provide on-the-job training, including workplace mentoring, to the degree a participant needs to perform job duties;
 - 7. If a registered contractor, provide on-the-job training by enrolling the participant in a program approved by the Department of Labor, Bureau of Apprenticeship and Training;
 - 8. Maintain safety, health, and working conditions at or above levels generally acceptable in the industry and no less than that of comparable jobs offered by the employer;
 - 9. Provide health care coverage, sick leave, holiday and vacation leave, and other comparable benefits in conformance with the employer's rules for temporary employees;
 - 10. Provide Workers' Compensation coverage;
 - 11. Help the participant obtain any advance Earned Income Credit for which the participant may be eligible;
 - 12. Sign an agreement for each placement outlining the specific job offered to the participant and agreeing to abide by all requirements of the subsidized employment program.
- B.** If the employer satisfies the criteria listed in subsection (A), the employer may place a job order with the Agency. The

order shall include the following information on the available position:

1. Days and hours of work,
 2. Wages,
 3. Description of responsibilities,
 4. Benefits,
 5. Opportunity for advancement, and
 6. Other pertinent job-related information.
- C.** An employer who wishes to hire a participant shall sign an agreement with the Agency.
1. The employer shall affirm that the employer satisfies all the criteria in this Section and shall continue to meet the criteria while participating in the Subsidized Employment Program.
 2. If the employer violates a Subsidized Employment Program requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
 3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
 4. The employer shall prepare and provide to the Agency the following reports:
 - a. Each week, the employer shall verify and sign a time sheet for each participant stating:
 - i. Gross wages,
 - ii. Participant net earnings,
 - iii. Number of paid hours of work (including paid hours of leave),
 - iv. Hours for which a participant was not paid because the participant had an unexcused absence, and
 - v. Hours for which the participant was not paid because the employer reduced available work hours.
 - b. For the 1st 3 months of a placement, the employer shall complete and provide to the Agency, no later than the 10th workday of each calendar month following a month of work, a 1-page report on each participant's performance with the following information:
 - i. Skills (competencies) gained as a result of employment;
 - ii. Ability to correctly and timely complete assignments;
 - iii. General work habits such as punctuality, absenteeism, and neatness of work area; and
 - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
 5. An employer shall allow Agency staff to schedule and make visits to the work site to observe a participant's work activities and interview the participant.
- D.** The employer, an Agency representative, and the participant shall sign and date the agreement.
- E.** An employer who wishes to participate in the Subsidized Employment Program shall also provide the Agency with a signed, dated, and certified form. On the form, the employer shall certify that the information listed below is true, as to the employer and its principal officers and directors.
1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the state of Arizona, or any other state.
 2. The employer has not, within the preceding 3 years, been convicted of or had a civil judgment rendered against the employer for:
 - a. Fraud,
 - b. Antitrust,
 - c. Embezzlement,
 - d. Theft,
 - e. Forgery,
 - f. Bribery,
 - g. Falsification or destruction of records,
 - h. Making false statements, or
 - i. Receiving stolen property.
- F.** For each participant the Agency shall reimburse an employer in an amount not to exceed \$300 per month.
- G.** The Agency shall issue the reimbursement no later than the 25th day of the same calendar month in which the employer's report is timely received. Late receipt of the form may delay reimbursements.
- H.** An employer who disagrees with the amount of an unsubsidized payment, or who is subject to adverse action under subsection (I), may file a grievance with the Agency.
- I.** The Agency shall conduct grievance procedures according to R6-10-303, except that the Agency will substitute for the Department.
- J.** The Agency shall terminate the employer's participation in the Subsidized Employment Program if the employer has shown a pattern of either terminating participants before the completion of training or of not offering unsubsidized employment to participants who have successfully completed training with the employer.
1. The Agency shall consider each occurrence of either circumstance in establishing the pattern.
 2. The Agency shall not allow the employer to participate in the Subsidized Employment Program if the total occurrences exceed the greater of the following figures, unless the employer can establish good cause:
 - a. 2 occurrences; or
 - b. 20% of the total number of participants placed with the employer.
 - c. If the employer claims good cause, the employer shall provide proof that the participant failed to meet the employer's requirements under R6-15-1101(G), and that the employer attempted to establish a reasonable alternative with the participant but was unsuccessful, due to circumstances beyond the employer's control.
- K.** If the Agency determines that an employer has violated Subsidized Employment Program requirements, the Agency shall take all of the following adverse actions against the employer:
1. Withhold any subsidized payments due the employer, following the date of the violation;
 2. Seek repayment of any amounts overpaid to the employer; and
 3. Bar the employer from further participation in the Subsidized Employment Program.
- L.** If the Agency plans to take adverse action against an employer, the Agency shall send the employer a written notice of adverse action. The notice shall include:
1. The name and address of the employer,
 2. The action taken and the reason for the adverse action,
 3. The authority for the action, and
 4. The employer's appeal rights.

Historical Note

Adopted effective November 17, 1998 (Supp. 98-4).
Amended by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Editor's Note: Section R6-15-1103 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; and the Department was not required to hold public hearings on these rules.

R6-15-1103. Limits on Employer Participation; Workforce Waiver

- A.** An employer may hire 1 or more participants but shall not fill more than 10% of the employer's total workforce at a work site with participants unless the Agency approves a workforce waiver for the employer.
- B.** An employer interested in obtaining a workforce waiver shall request the workforce waiver in writing to the Agency. The employer shall provide the following information concerning the work site for which the employer seeks a waiver:
 - 1. Employee data, including:
 - a. The number of employees employed at the work site,
 - b. The number and type of positions available to participant, and
 - c. The wages and hours of the available positions;
 - 2. The percentage of the employer's workforce that the employer seeks to fill with participants and the total participant workforce percentage if the requested waiver is approved;
 - 3. A statement that existing employees will not be displaced by the waiver, by the increased numbers of participants that may be hired; and
 - 4. A statement explaining why the potential hires will benefit.
- C.** The Agency shall consider the information provided by the employer and the following factors in determining whether to grant the requested waiver:
 - 1. Lack of suitable positions with other employers;
 - 2. Quality of the employer's training and mentoring program;
 - 3. Transferability of skills to other employment opportunities;
 - 4. Local labor market factors affecting the employability of persons with the skills to be acquired;
 - 5. Employer's history regarding permanent hiring of participants in unsubsidized employment; and
 - 6. Wages, advancements, and other comparable factors.
- D.** The Agency shall send the employer a written notice advising the employer as to:
 - 1. Whether the Agency will grant a waiver;
 - 2. The waiver percentage allowed; and
 - 3. The time period for the waiver, which shall not exceed 1 year.
- E.** The Agency shall not be obligated to renew a waiver and may cancel a waiver on 60 days' notice to the employer.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Article 12, consisting of Sections R6-15-1201 through R6-15-1208, adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as proposed rules in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review

these rules; and the Department was not required to hold public hearings on these rules.

ARTICLE 12. APPEALS

Section R6-15-1201 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1201. Entitlement to a Fact-finding Hearing

- A.** An applicant for or participant in Arizona Works is entitled to a fact-finding hearing to contest the following Agency actions:
 - 1. Denial of the right to apply for Arizona Works assistance;
 - 2. Complete or partial denial of an application for Arizona Works assistance;
 - 3. Failure to make an eligibility determination on an application within 45 days of the application date;
 - 4. Suspension, termination, reduction, or withholding of Arizona Works assistance except as provided in subsection (C);
 - 5. The existence or amount of an overpayment attributed to the group, or the terms of a plan to repay the overpayment;
 - 6. Changing the manner or form of payment, including naming a protective payee to receive the benefit payment;
 - 7. Denial or termination of child care benefits;
 - 8. Assignment of the applicant to a particular employment level that the applicant believes is inappropriate; or
 - 9. An action on the part of the Agency that adversely affects the applicant's benefits.
- B.** The Agency shall process all appeals arising out of Arizona Works cash assistance matters, including cash assistance overpayment decisions. The Department shall process all appeals arising out of Food Stamp, Medicaid, General Assistance, and Child Care matters for Arizona Works recipients.
- C.** Applicants and participants are not entitled to a fact-finding hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Agency has incorrectly applied the law to the individual seeking the hearing.
- D.** If an appellant files a timely request for appeal, the Agency shall stay imposition of the adverse action and continue benefits at the current level unless:
 - 1. The appellant specifically waives continuation of current benefits,
 - 2. The appeal results from a change in federal or state law which mandates an automatic grant adjustment for all classes of recipients and does not involve a misapplication of the law, or
 - 3. The appellant is requesting continuation of benefits beyond their federal lifetime limit of 60-months.
- E.** The adverse action shall be stayed until receipt of an official written decision in favor of the Agency, except in the following circumstances:
 - 1. At the fact-finding, the grievance officer finds that: the sole issue involves application of law, and the Agency properly applied the law and computed the benefits due the appellant;
 - 2. A change in eligibility or benefit amount occurs for reasons other than those being appealed, and the assistance unit receives and fails to timely appeal a notice of adverse action concerning such change;

3. Federal or state law mandates an automatic grant adjustment for classes of recipients;
 4. The appellant withdraws the request for a fact-finding hearing; or
 5. The appellant fails to appear without good cause for a scheduled hearing without prior notice to the Agency grievance officer, and the grievance officer does not rule in favor of the appellant based upon the record.
- F. Upon receipt of decision in favor of the Agency, the Agency shall write an overpayment for the amount of any benefits the unit received in excess of the correct benefit amount, while the stay was in effect.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1202 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1202. Request for a Fact-finding Hearing

- A. A person who wishes to appeal an adverse action shall file a written request for a fact-finding hearing with an Agency office within 5 working days after the date of receipt by the recipient.
- B. Any document mailed by the Agency is deemed received by the addressee 10 days after the date it is mailed to the addressee's last known address. The date mailed is presumed to be the date shown on the document, unless otherwise indicated by the facts. Time is computed in accordance with Rule 6(a) of the Rules of Civil Procedure.
- C. A request for a hearing is deemed filed:
 1. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
 - a. As shown by the postmark;
 - b. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 2. On the date actually received by the Agency, if not sent through the mail as provided in subsection (C)(1).
- D. The submission of any document is timely if the appellant proves that delay in submission was due to Agency error or misinformation, or to delay caused by the U.S. Postal Service or its successor.
- E. The Agency shall deny any request that is not timely filed. A party may request an appeal on the timeliness of an appeal. If the appellant can show good cause for the late filing of an appeal, the appeal shall be considered timely filed.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1203 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review

Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1203. Scheduling a Fact-finding Hearing

The Agency shall schedule and conduct the fact-finding hearing at the office location most convenient to the appellant, within 30 days after the notice of appeal is filed.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1204 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1204. Notice of Fact-finding Hearing

- A. The Agency shall issue all interested parties a notice of the fact-finding at least 5 calendar days before the hearing.
- B. The notice of fact-finding shall be in writing and shall include the following information:
 1. The date, time, and place of the hearing;
 2. The name of the grievance officer;
 3. The issues involved in the case;
 4. A statement listing the appellant's rights, as follows:
 - a. To appear in person, or by telephone if incapacitated;
 - b. To have a representative present the case;
 - c. To copy, at a reasonable time prior to the hearing, or during the hearing, any documents in the appellant's case file which are relevant to the issues being heard, and all documents the Agency may use at the hearing;
 - d. To obtain, from the Agency, information on available community legal resources who may be able to represent the appellant.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1205 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1205. Fact-finding Procedures; Grievance Officer

- A. The Agency shall appoint an impartial grievance officer to conduct all hearings.
- B. An appellant may request a change in grievance officer if the appellant so requests at least 5 days prior to the hearing. The appellant is limited to 1 request.
- C. The grievance officer shall:
 1. Regulate and conduct the hearing in an orderly and dignified manner, which avoids undue repetition and affords all participants an opportunity to provide relevant information;
 2. Ensure that all relevant issues are considered;
 3. Exclude irrelevant information from the record;
 4. Request, receive, and incorporate all relevant information into the decision making process;

5. Order, when relevant and useful to a resolution of the issue in a case, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the Agency;
6. Open, conduct, and close the hearing;
7. Rule on the admissibility of information at a hearing;
8. Direct the order of presentation at the hearing;
9. For good cause shown, and upon the request of an interested party, or on the grievance officer's own motion, take such action as the grievance officer deems necessary to the proper disposition of an appeal, including, without limitation, the following:
 - a. Disqualify himself or herself from the case;
 - b. Continue the hearing to a future time or date;
 - c. Prior to entry of a final decision, reopen the hearing to include additional information;
 - d. Deny or dismiss the appeal or request for hearing in accordance with the provisions of this Article;
 - e. Exclude nonparty witnesses from the hearing room; and
10. Issue a written decision deciding the appeal.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1206 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1206. Fact-finding Hearing Procedures; Conduct of Proceeding

- A. Standard and burden of proof.
 1. The hearing is a de novo proceeding. To prevail on appeal, the appellant must prove eligibility for assistance by a preponderance of the evidence.
 2. The Appellant has the initial burden of going forward with presentation of relevant information.
 3. The appellant must provide information that the adverse action that is being challenged is not based on reasonable information.
- B. Appearance by parties and representatives.
 1. An appellant that is incapacitated may appear via telephone conference call or submit a written statement, instead of appearing personally at the hearing. The appellant shall file the personal statement with all other witness statements and documents the appellant wishes to offer with the grievance officer before or at the time of the hearing.
 2. The Arizona Works case manager, Arizona Works supervisor, or another appropriate person, may provide information for the Agency at the hearing.
- C. Presentation of the facts.
 1. The appellant may present information, question witnesses, or present arguments as to why the action taken is unlawful or improper.

2. The agency will then present information to explain or justify its action.
3. The grievance officer shall exclude irrelevant information from the record.
- D. The record. The grievance officer shall keep a complete record of all proceedings in connection with an appeal. The appellant or the appellant's designated representative may inspect the record on appeal during regular office hours.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1207 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1207. Fact-finding Hearing Procedures; Decision

- A. No later than 60 days after the date the appellant files a request for appeal, the grievance officer shall issue a written decision based solely on the information provided at the hearing and on applicable federal and state law. The time limit is extended for any delay that is determined to be good cause on the part of the appellant.
- B. The decision shall include:
 1. Findings of facts pertinent to the issue,
 2. Citations to the law and authority applicable to the case,
 3. A statement of conclusions derived from the controlling facts and law and the reasons for the conclusions, and
 4. A statement of further appeal rights available to the appellant and the time period for exercising those rights.
- C. The Agency shall mail or deliver a copy of the decision to each interested party or the party's attorney of record.
- D. The grievance officer's decision is the final Agency decision.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).

Section R6-15-1208 was adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74; Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit notice of this rulemaking to the Secretary of State's Office for publication as a proposed rule in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review this rule; and the Department was not required to hold public hearings on this rule.

R6-15-1208. Further Appeal

- A. An applicant or recipient may seek administrative review of the agency hearing officer's decision under A.R.S. Title 41, Chapter 6, Article 10.
- B. An applicant or recipient may seek judicial review of the administrative hearing officer's decision under A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

New Section adopted by exempt rulemaking at 5 A.A.R. 1116, effective March 22, 1999 (Supp. 99-1).